1



17 June 2022

Our Reference: 22SYD - 2235

Landcom Level 14, 60 Station Street Parramatta NSW 2150 Attention: Thomas Gianatti

Dear Thomas,

Precinct 3 Lot 5 DP1272931 (DA01) Edmondson Park - Biodiversity Assessment

Eco Logical Australia (ELA) were engaged to undertake a Biodiversity Assessment of the proposed development within Lot 5 DP1272931 (DA01) at Campbelltown Road, Edmondson Park (Figure 1). The proposed development will include:

Removal of trees within biodiversity certified land.

This report is to support submission of a Development Application (DA01) for the works stated above (the Proposal). This letter describes the assessment of biodiversity values for the Proposal in relation to the following biodiversity related legislation and policy:

- Biodiversity Conservation Act 2016 (BC Act)
- Water Management Act 2000 (WM Act)
- Fisheries Management Act 1994 (FM Act)
- State Environmental Planning Policy (Precincts Western Parkland City) 2021
- Liverpool City Council Development Control Plan 2019 (Liverpool DCP).
- Edmondson Park South Development Control Plan 2012 (EPS DCP)
- Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)

Should you have any questions on this matter, please contact me on (02) 9259 3756.

Yours sincerely,

Courtney Blick

Environmental Consultant

BIODIVERSITY CERTIFICATION

ELA has undertaken a review of the Proposal at Campbelltown Road, Edmondson Park, and can confirm that the entirety of the study area is 'subject land' according to Part 7 (*Biocertification of the Sydney region growth centres SEPP and related EPIs*) of Schedule 7 to the *Threatened Species Conservation Act* 1995 (TSC Act) (Figure 2).

In August 2017, the BC Act was gazetted and repealed the TSC Act, however under section 43 of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, the repeal of the TSC Act does not affect the operation of part 7 or 8 of Schedule 7 to that Act.

Section 8.4(2) of the BC Act describes the effect of biodiversity certification in relation to development under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), stating: '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 1979'.

Therefore, no further assessment of impacts to threatened species, populations or ecological communities is required under the BC Act.

STATE ENVIRONMENTAL PLANNING POLICY (PRECINCTS - WESTERN PARKLAND CITY) 2021

Section 32 of the Western Parkland City SEPP – *Appendix 1 Edmondson Park South site* contains controls for native vegetation areas areas as shown on the Native Vegetation Protection (NVP) Map.

Section 32(4) states that:

The consent authority must not grant development consent for development on land to which this section applies unless the consent authority is satisfied that the proposed development will not result in the clearing of any native vegetation

The study area does not contain vegetation mapped as NVP.

EDMONDSON PARK SOUTH DEVELOPMENT CONTROL PLAN 2012

The Edmondson Park South Development Control Plan (EPS DCP) applies to the study area. In accordance with Section 1.4 of the ESP DCP states that ESP DCP should read in conjunction with the Liverpool DCP with regards to bushland and fauna habitat preservation.

LIVERPOOL CITY COUNCIL DEVELOPMENT CONTROL PLAN 2008

Section 2.11 of the *Liverpool City Council Development Control Plan 2019* (Liverpool DCP) contains controls for land subdivision and development in Edmondson Park. Section 4 of Part 1 (General Controls for all Development) contains objectives and provisions relating to native bushland and fauna habitat preservation. This section applies to:

- Land which contains or is adjacent to bushland
- All land that contains known or potential habitat for threatened species, populations or communities
- Any land zoned:
 - W1 Natural Waterways
 - SP1 Drainage
 - Land shown on the Environmental Significant Land Maps of the Liverpool LEP 2008 (LLEP)

- E2 Environmental Conservation
- E3 Environmental Management
- Waterbodies as defined in the LLEP

The study area is adjacent to land zoned as C1 National Parks and Nature Reserves, which for the purposes of this assessment may be considered 'bushland'. Therefore, the controls under Section 4 apply. Table 1 outlines how the proposed development has considered these specific provisions relating to biodiversity. Note that this table does not consider controls relevant to landscaping, clearing for the purposes of bushfire management, or the implementation of a Vegetation Management Plan (VMP).

Table 1: Liverpool DCP Controls (Bushland and fauna habitat preservation)

Liverpool DCP - Part 1 Section 4

1. Bushland, particularly that identified as a threatened community or habitat for a threatened species shall be substantially retained and incorporated within a development. Clearing of bushland in association with any development shall be limited to the extent necessary to facilitate the safe and orderly use of the land.

2. Where impacts on threatened biodiversity are unavoidable, offsetting utilising the NSW Government BioBanking Scheme will be required where practicable.

4. Prior to the commencement of the design of a development, existing bushland and fauna habitat should be identified. The design of the development should consider retention of this bushland and fauna habitat.

5. Development shall not adversely impact on the long term viability of bushland. Existing connectivity and contiguity of bushland stands and fauna corridors shall be retained.

Comments

The entire study area is biodiversity certified. The clearing of native vegetation within biodiversity certified lands has been compensated through the use of biodiversity offsets in other areas of the Edmondson Park precinct. No impacts to NVP are proposed.

No further assessment of biodiversity is required for development on biodiversity certified land.

The BioBanking Scheme was replaced by the Biodiversity Offsets Scheme (BOS) under the BC Act as of 25 August 2017. The BOS is triggered where impacts to native vegetation are 0.25 ha or more (the area clearing threshold for the minimum lot size of the study area), or by any impact on the Biodiversity Values Map (BVM). No BVM land is within the study area, and no impacts to non-certified native vegetation are proposed as part of the works.

Hence, this clause does not apply.

The design of the development and corresponding study area has been sited to avoid impacts to biodiversity values (NVP and BVM). The development is entirely within biodiversity certified land. The clearing of native vegetation within biodiversity certified lands has been compensated through the use of biodiversity offsets in other areas of the Edmondson Park precinct.

The development is entirely within biodiversity certified land. The clearing of native vegetation within biodiversity certified lands has been compensated through the use of biodiversity offsets in other areas of the Edmondson Park precinct. However, as areas of NVP and BVM are adjacent to the proposed development, in addition to land zoned as C1 National parks and nature reserves (Figure 5), this section applies as the study area is adjacent to bushland. C1 zoned land is dominated by Cumberland Plain Woodland (CPW), a Critically Endangered Ecological Community (CEEC) (Figure 4). No assessment of biodiversity is required for the development as it is wholly on biodiversity certified land. Additionally, the indicative layout plan (Figure 6) retains bushland to the west and north of the study area, maintaining connectivity.

3

Liverpool DCP - Part 1 Section 4

6. Where a proposal is likely to adversely impact on bushland, a Vegetation Management Plan (VMP) for the conservation of the bushland shall be submitted. the VMP shall be undertaken in accordance with pertinent NSW Office of Water Guidelines.

Comments

The entire study area is biodiversity certified. The clearing of native vegetation within biodiversity certified lands has been compensated through the use of biodiversity offsets within other areas of the Edmondson Park precinct.

The study area is adjacent to C1 zoned land containing a CPW which extends into the cadastre of Lot 5 DP1272931. The study area, however, excludes the portion of the lot boundary which contains C1 zoning, avoiding impacts to C1 zoned land. It is recommended that mitigation measures are put in place such as pre clearance surveys, exclusion zones and erosion a sediment controls during construction to reduce the impacts of the edged effect on bushland within the C1 zoned land. These measures are described in further detail below.

10. Council may require measures to restrict access to bushland areas where it considers necessary, to ensure the conservation of bushland

The proponent will work with Council to restrict access to bushland areas if required.

FISHERIES MANAGEMENT ACT 1994

The FM Act contains several provisions for the protection of fish habitat and threatened species. The proposed works:

- Will not impact on a waterway mapped as 'Key Fish Habitat' or a waterway that contains a threatened species record.
- Will not harm marine vegetation.
- Will not require, dredging of the bed and land reclamation of a Key Fish Habitat Creek.

Therefore, a Part 7 Permit under the FM Act is not required.

WATER MANAGEMENT ACT 2000

There is a mapped first order watercourse (in accordance with the Strahler system) within the study area (Figure 2). Section 4.1 of the ESP DCP provides controls for riparian corridors and water cycle management. These controls do not apply as there are no mapped Riparian Corridors within the study area according to Figure 21 of the ESP DCP. Table 2 refers to controls within the Liverpool DCP relating to development near a watercourse.

Table 2: Liverpool DCP Controls (Development near a watercourse)

Liverpool DCP - Part 1 Section 7

1. If any works are proposed near a water course, the *Water Management Act 2000* may apply, and you may be required to seek controlled activity approval from the NSW Office of Water. Please consult with the NSW Office of Water regarding your proposal. Section 4 Bushland and Fauna Habitat Preservation of this DCP should also be addressed when pertinent.

Comments

A first-order watercourse has been mapped within the study area in accordance with the Strahler classification. The proposed works relate to the removal of trees within biodiversity certified land within the study area and have the potential to impact on the mapped watercourse and bank stability. A Controlled Activity Approval (CAA) is typically required for work within waterfront land, which is defined as land 40 m from the highest bank of a river, lake or estuary. Based on aerial imagery, there is the potential absence of bed or bank associated with the mapped watercourse. As such, field validation of bed and bank (or absence thereof) would

Comments

to be required to determine if the watercourse conforms to the definition of a river under the WM Act.

COMMONWEALTH STRATEGIC ASSESSMENT (EPBC ACT)

On 28th February 2012, the Commonwealth Minister for the Environment announced that the program of development activities within the Growth Centres was approved under the EPBC Act Strategic Assessment process. Specifically, all actions associated with the development of the Western Sydney Growth Centres as described in the Sydney Growth Centres Strategic Assessment Program Report (Nov 2010) have been assessed at the strategic level and approved in regard to their impact on the following Matters of National Environmental Significance:

- World Heritage Properties
- National Heritage Places
- Wetlands of International Importance
- Listed threatened species and communities
- Listed migratory species.

These decisions indicate that the Commonwealth is satisfied that the conservation and development outcomes that will be achieved through the Western Sydney Growth Centres Program will satisfy their requirements for environmental protection under the EPBC Act. Provided that development activity proceeds in accordance with the Growth Centres requirements (such as the Biodiversity Certification Order, the Western Parkland City SEPP, Liverpool Growth Centre Precincts DCP, Growth Centres Development Code etc.), there is no requirement to assess the impact of development activities on Matters of National Environmental Significance within the Growth Centres and no requirement for referral of activities to the Commonwealth Department of Environment.

The study area is therefore exempt from further assessment of threatened species and threatened ecological communities listed under the BC Act or the Commonwealth EPBC Act.

Where habitat for native fauna is to be removed, the works should be done in such a manner that minimises the risk of risk of injury or death to native fauna.

MITIGATION MEASURES

The following mitigation measures are recommended to be implemented pre and during construction:

- An ecologist is to undertake a pre-clearance survey across the whole development area and undertake necessary measure to ensure no fauna are harmed in the clearing of vegetation.
- A sediment and erosion control plan must be prepared in accordance with *Managing Urban Stormwater Soils and Construction (Blue Book)* produced by the NSW Department of Housing. The plan must be implemented prior to construction commencing.
- Exclusion fencing must be installed in areas where the study area abuts bushland. Signage must be installed that instructs people that these areas are not to be to entered.

Appendix A Figures

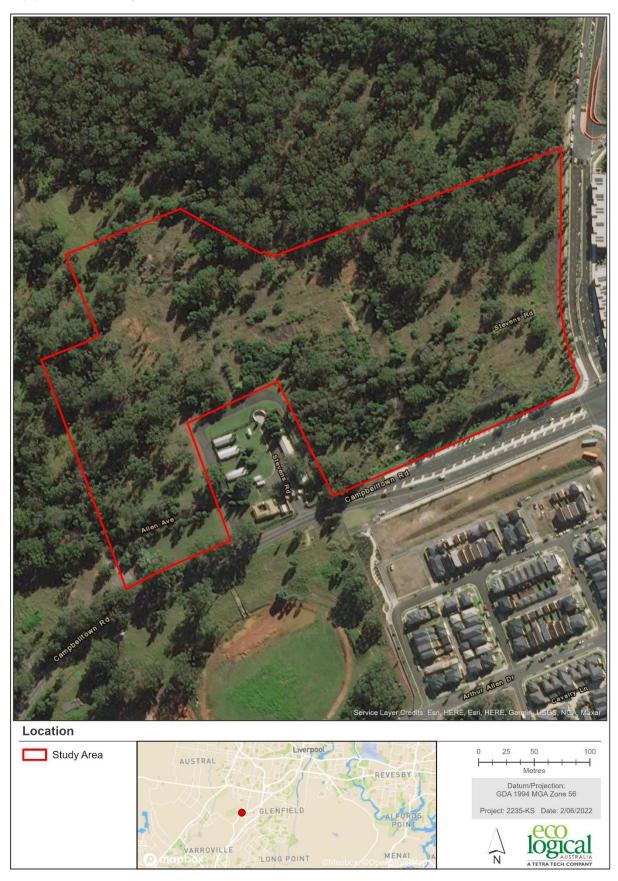


Figure 1: Location of proposed development



Figure 2: Biodiversity certified lands in relation to the proposed development (State Environmental Planning Policy (Precincts—Western Parkland City) DPE 2021)



Figure 3: Biodiversity Values Map (BVM) in relation to the study area

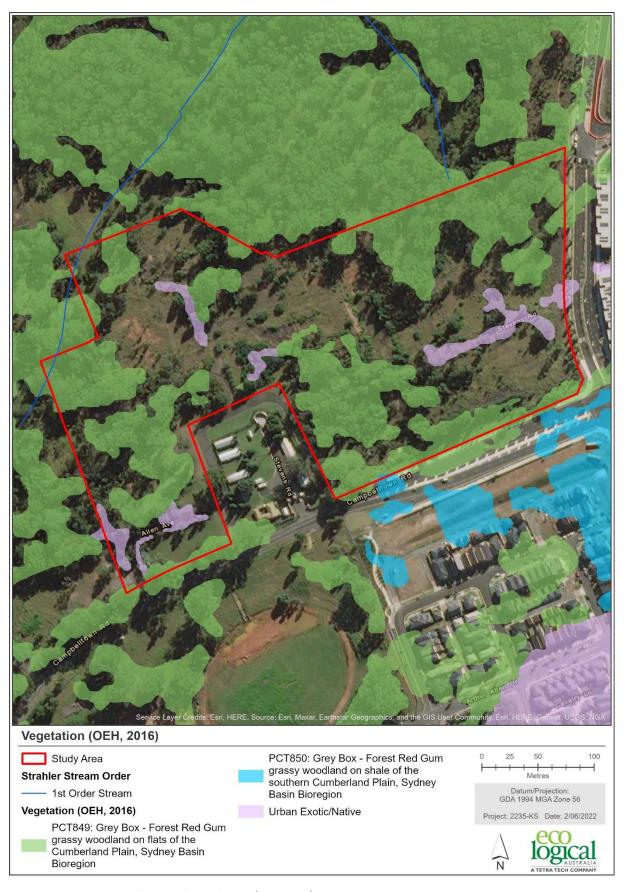
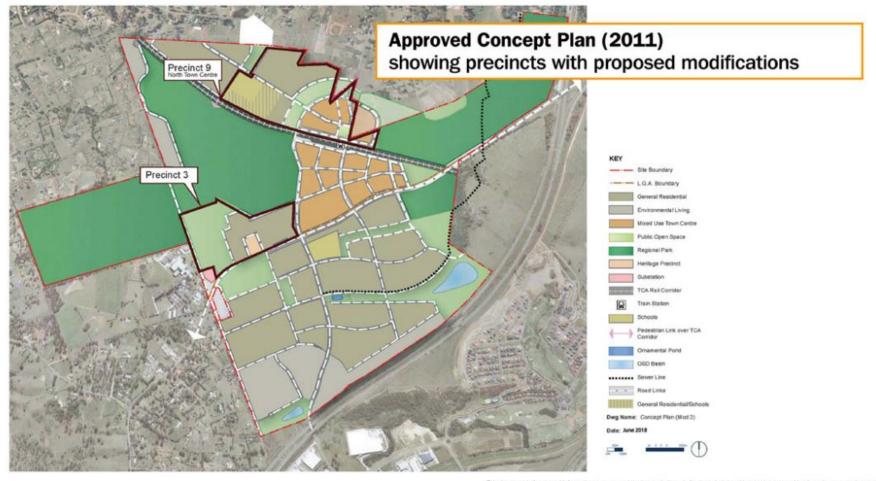


Figure 4: Vegetation in relation to the study area (OEH, 2016)



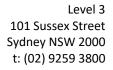
Figure 5: Land zoning in relation to the study area according to the Liverpool Local Environmental Plan 2008



This document is for general informative purposes and the images in it are indicative only. It is subject to statutory and legal requirements and approvals.

Landson file-bi-field by advantaged membranes into any appropriate property of completeness. Interesting persons must not on their year appointed.

Figure 6: Indicative Layout Plan (ILP)





2 November 2022

Our ref: 22SYD 2235

Landcom

Level 14, 60 Station Street, Parramatta NSW 2150

Attention: Thomas Gianatti

Dear Thomas,

Precinct 3, Lot 3, DP 1272931 Edmondson Park - Biodiversity Certification Letter

Eco Logical Australia (ELA) has prepared the following Biodiversity Certification Letter to accompany the proposed development at Lot 3//DP1272931 Zouch Road, Edmondson Park NSW. ELA were engaged to undertake the Biodiversity Assessment of the proposed development which will include:

- Removal of vegetation within biodiversity certified land
- Development of a road

This report is to support submission of a Development Application for the works stated above (the Proposal). This letter describes the assessment of biodiversity values for the Proposal in relation to the following biodiversity related legislation and policy:

- Biodiversity Conservation Act 2016 (BC Act)
- Water Management Act 2000 (WM Act)
- Fisheries Management Act 1994 (FM Act)
- State Environmental Planning Policy (Precincts Western Parkland City) 2021
- Liverpool City Council Development Control Plan 2019
- Edmondson Park South Development Control Plan 2012
- Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)

Should you have any questions on this matter, please contact me on (02) 9259 3755.

Sincerely,

Sam Oomens

Environmental Consultant

BIODIVERSITY CERTIFICATION

ELA has undertaken a review of the proposed development, at Lot 3, DP1272931 within the Edmondson Park site, and can confirm that the impact area is wholly mapped biodiversity certified land under Part 8 of the *Biodiversity Conservation Act 2016* (BC Act)(Figure 2).

Section 8.4(2) of the BC Act describes the effect of biodiversity certification in relation to development under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This section states '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 1979'

The northern portion of the Study Area contains land that is not biodiversity certified, however this will not to be impacted by the proposed works.

STATE ENVIRONMENTAL PLANNING POLICY (PRECINCTS – WESTERN PARKLAND CITY) 2021

Part 6, Section 6.3(1-4) of the *State Environmental Planning Policy (Precincts – Western Parkland City)* 2021 (Western Parkland City SEPP) contains controls for the clearing of Native Vegetation Protection (NVP) areas as shown on the NVP Map.

Section 32(4) states that:

The consent authority must not grant development consent for development on land to which this section applies unless the consent authority is satisfied that the proposed development will not result in the clearing of any native vegetation

The subject site does not contain any vegetation mapped as NVP (Figure 2).

EDMONDSON PARK SOUTH DEVELOPMENT CONTROL PLAN 2012

The Edmondson Park South Development Control Plan 2012 (Edmondson Park DCP) applies to the study area. In accordance with Section 1.4 of the Edmondson Park DCP, the DCP should read in conjunction with the Liverpool City Council Development Control Plan 2008 (Liverpool DCP) with regards to bushland and fauna habitat preservation.

LIVERPOOL CITY COUNCIL DEVELOPMENT CONTROL PLAN 2008

Section 2.11 of Part 1 of the Liverpool DCP contains controls for land subdivision and development in Edmondson Park. Section 4 of Part 1 (General Controls for all Development) contains objectives and provisions relating to native bushland and fauna habitat preservation. This section applies to:

- Land which contains or is adjacent to bushland
- All land that contains known or potential habitat for threatened species, populations, or communities
- Any land zoned:
 - W1 Natural Waterways
 - SP1 Drainage
 - Land shown on the Environmental Significant Land Maps of the Liverpool Local Environmental Plan (LEP) 2008
 - E2 Environmental Conservation
 - o E3 Environmental Management

Waterbodies as defined in the Liverpool LEP

The study area contains land which is defined as bushland. It is considered bushland as it contains vegetation which has previously been mapped as a threatened ecological community (TEC), Cumberland Plain Woodland (CPW), which is listed as Critically Endangered under both the BC Act and Commonwealth EPBC Act (Figure 4).

Therefore, the controls under Section 4 apply. Table 1 outlines how the proposed development has considered these specific provisions relating to biodiversity. Note that this table does not consider controls relevant to landscaping, clearing for the purposes of bushfire management, or the implementation of a Vegetation Management Plan (VMP).

Table 1: Liverpool DCP controls relevant to the proposed works

Liverpool DCP - Part 1 Section 4

1. Bushland, particularly that identified as a threatened community or habitat for a threatened species shall be substantially retained and incorporated within a development. Clearing of bushland in association with any development shall be limited to the extent necessary to facilitate the safe and orderly use of the land.

Where impacts on threatened biodiversity are unavoidable, offsetting utilising the NSW Government

BioBanking Scheme will be required where practicable.

4. Prior to the commencement of the design of a development, existing bushland and fauna habitat should be identified. The design of the development should consider retention of this bushland and fauna habitat.

Comments

The removal of vegetation is required to construct a road to service the future residential development in the adjacent lot, Lot 5 DP 1272931. Therefore, the removal of vegetation is considered essential to enable the safe an orderly use of land.

The impact area is wholly biodiversity certified, however the study area contains non biodiversity certified land in the northern portion of the site. The clearing of native vegetation within biodiversity certified lands has been compensated through the Biodiversity Certification Order and the protection of 2,000 ha of good quality native vegetation within the Sydney region growth centres.

The BioBanking Scheme was replaced by the Biodiversity Offsets Scheme (BOS) under the BC Act as of 25 August 2017. However, given the impact area is entirely biodiversity certified, the BOS will not be triggered, and biodiversity offsets are not required

It is noted that there is land to the north of the impact area which is both non-biodiversity certified and on the Biodiversity Values Map (when accessed 1/11/2022). No direct impacts to this area are proposed however, given the proximity of the works to the non-biodiversity certified vegetation, mitigation measures have been recommended to reduce potential indirect impacts such as spoil and machinery placement.

The design of the development and corresponding impact area has been sited to avoid impacts to biodiversity values (such as areas mapped as NVP in accordance with the Western Parkland City SEPP and on the Biodiversity Values Map). The proposed works are entirely within biodiversity certified land. The clearing of native vegetation within biodiversity certified lands has been compensated through the Biodiversity Certification Order and the protection of 2,000 ha of good quality native vegetation within the Sydney region growth centres.

Liverpool DCP – Part 1 Section 4	Comments
5. Development shall not adversely impact on the long term viability of bushland. Existing connectivity and contiguity of bushland stands, and fauna corridors shall be retained.	The development is entirely within biodiversity certified land. The clearing of native vegetation within biodiversity certified lands has been compensated through the Biodiversity Certification Order and the protection of 2,000 ha of good quality native vegetation within the Sydney region growth centres. Additionally, the impact area retains bushland in the north of the study area, which maintains a connection to Edmondson Regional Park.
6. Where a proposal is likely to adversely impact on bushland, a Vegetation Management Plan (VMP) for the conservation of the bushland shall be submitted. The VMP shall be undertaken in accordance with pertinent NSW Office of Water Guidelines.	The impact area is wholly located on biodiversity certified land. The clearing of native vegetation within biodiversity certified lands has been compensated through the Biodiversity Certification Order and the protection of 2,000 ha of good quality native vegetation within the Sydney region growth centres. The impact area is not within Waterfront land in accordance with the WM Act. Therefore, the preparation of a VMP is not required for the removal of native vegetation. Additional mitigation measures will be undertaken prior to and during construction, such as preclearance surveys, the delineation of exclusions zones and erosion and sediment controls to reduce the potential indirect impacts of the works on adjacent native vegetation. These measures are described in further detail below.
10. Council may require measures to restrict access to bushland areas where it considers necessary, to ensure the conservation of bushland.	The proponent will work with Council to restrict access to bushland areas if required.

FISHERIES MANAGEMENT ACT 1994

The FM Act contains several provisions for the protection of fish habitat and threatened species. The proposed works:

- Will not impact on a waterway mapped as 'Key Fish Habitat' or a waterway that contains a threatened species record
- Will no harm marine vegetation
- Will not require dredging of a bed and land reclamation of a Key Fish Habitat Creek

Therefore, a Part 7 Permit under the FM Act is not required.

WATER MANAGEMENT ACT 2000

There is one (1) mapped 1st order watercourse (in accordance with the Strahler system) within the study area, see Figure 5. ELA undertook field validation of the watercourse and found that the mapped water course, within lot 3 DP 1272931, was an overland flow path and only met the definition of a 'river', under the WM Act approximately 230 m downstream of the start of the mapped 1st order watercourse (ELA, 2022). This is presented in Figure 5.

A Controlled Activity Approval (CAA) is typically required for work within waterfront land, which is defined as land 40 m from the highest bank of a river, lake, or estuary. However, as the start of the water

course has been validated as starting further downstream than the mapped watercourse, the proposal does not intersect waterfront land. Therefore, no CAA is required for this proposal.

COMMONWEALTH STRATEGIC ASSESSMENT (EPBC ACT)

On 28th February 2012, the Commonwealth Minister for the Environment announced that the program of development activities within the Growth Centres was approved under the Environment Protection and *Biodiversity Conservation Act 1999* (EPBC Act) Strategic Assessment process. Specifically, all actions associated with the development of the Western Sydney Growth Centres as described in the Sydney Growth Centres Strategic Assessment Program Report (Nov 2010) have been assessed at the strategic level and approved regarding their impact on the following Matters of National Environmental Significance:

- World Heritage Properties
- National Heritage Places
- Wetlands of International Importance
- Listed Threatened Species and Communities
- Listed migratory species

The approval by the Commonwealth of the conservation and development outcomes to be achieved through the Western Sydney Growth Centres Program demonstrates the requirements for environmental protection under the EPBC Act will be satisfied. Provided that development activity proceeds in accordance with the Growth Centres requirements (such as the Biodiversity Certification Order, the Western Parkland City SEPP, Liverpool Growth Centre Precincts DCP, Growth Centres Development Code, etc.), there is no requirement to assess the impact of development activities on Matters of National Environmental Significance within the Growth Centres and no requirement for referral of activities to the Commonwealth Department of Environment.

The study area is therefore exempt from further assessment of threatened species and threatened ecological communities listed under the BC Act or the Commonwealth EPBC Act.

Where habitat for native fauna is to be removed, the works should be done in such a manner that minimises the risk of injury or death to native fauna.

MITIGATION MEASURES

The following mitigation measures are recommended to be implemented prior and during construction.

Table 2: Proposed mitigation measures

Mitigation Measure	Construction Phase
An ecologist is to undertake a pre-clearance survey across the whole development area and undertake necessary measures to ensure no fauna are harmed in the clearing of vegetation	Pre-construction
A sediment and erosion control plan must be prepared in accordance with <i>Managing Urban Stormwater – Soils and Construction (Blue Book)</i> produced by the NSW Department of Housing. The plan must be implemented prior to construction commencing.	Pre-construction
Exclusion fencing must be installed in areas where the study area abuts areas containing Biodiversity Values (Figure 3). Signage must be installed that instructs people that these areas are not to be entered	Pre-construction & construction

REFERENCES

Eco Logical Australia (ELA). 2022. Edmundson Park Watercourse Validation Letter.

Appendix A Figures



Figure 1: Location of proposed development

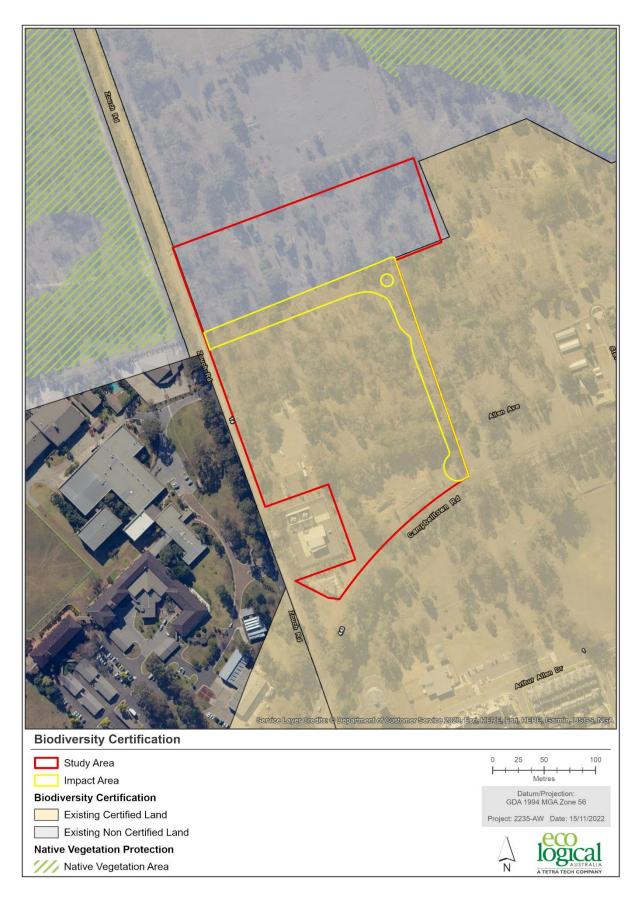


Figure 2: Biodiversity Certified lands in relation to the proposed development (State Environmental Planning Policy (Precincts - Western Parkland City) DPE 2021)

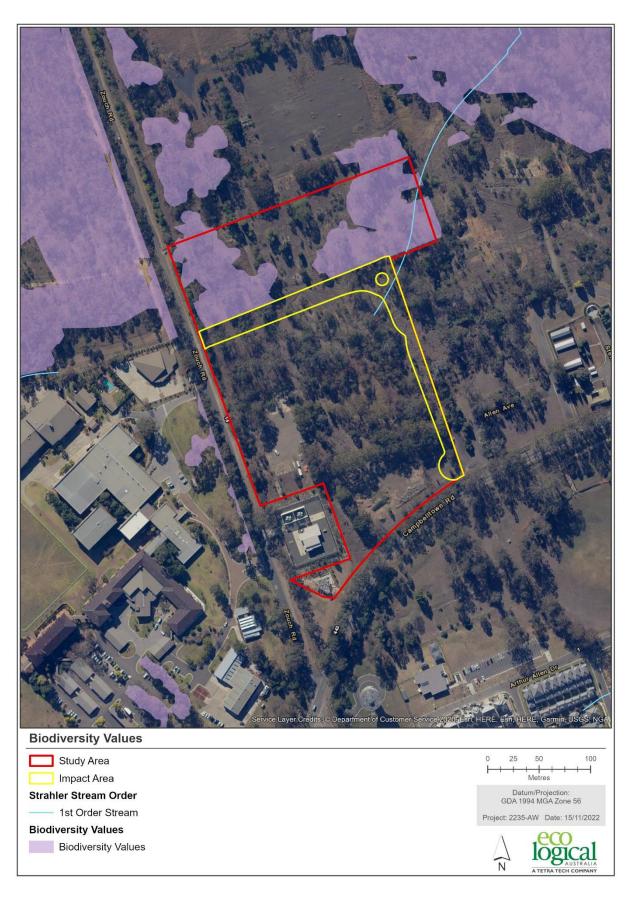


Figure 3: Biodiversity Values Map (BVM) in relation to the study area



Figure 4: Vegetation in relation to the study area (OEH, 2016)

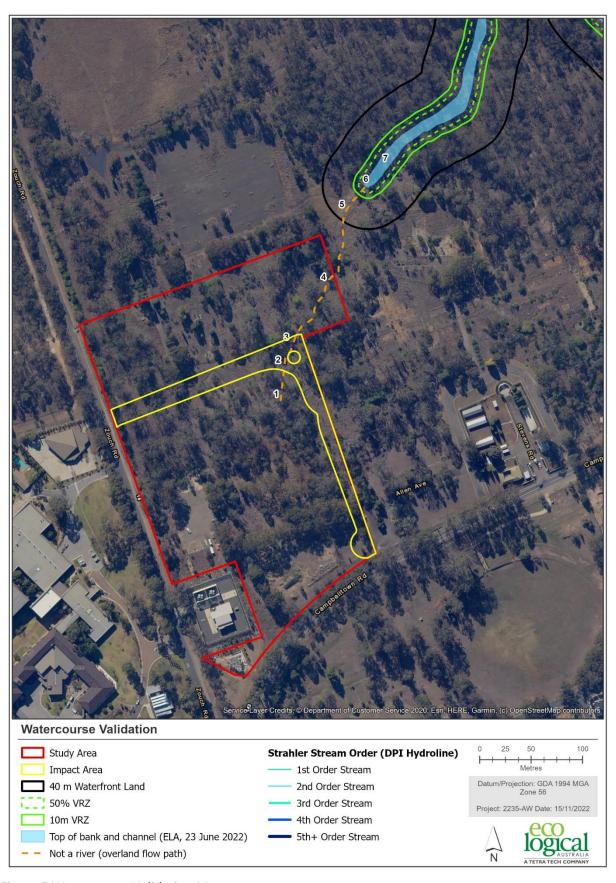


Figure 5 Watercourse Validation Map

THREATENED SPECIES CONSERVATION ACT 1995

Order to confer biodiversity certification on the State Environmental Planning Policy (Sydney Region Growth Centres) 2006

I, Verity Firth, Minister Assisting the Minister for Climate Change, Environment and Water (Environment), do by this order confer biodiversity certification on the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (the SEPP) for the purposes of the *Threatened Species Conservation Act 1995* (the Act).

I am satisfied that the SEPP, and other relevant measures, will lead to the overall improvement or maintenance of biodiversity values.

Pursuant to section 126H of the Act, the biodiversity certification of the SEPP is subject to the conditions listed in Schedules 1, 2, 3 and 4 below. The conditions are necessary to ensure that the SEPP and other relevant measures will lead to the overall improvement or maintenance of biodiversity values, including the limiting of certification to specified lands, procedures for the allocation of conservation funding for offsets, and mechanisms for the on-going review of progress in delivering offsets.

This order is made under section 126G(1) of the Act.

This order is to take effect on and from the date of its publication in the Government Gazette.

Pursuant to section 126J of the Act, biodiversity certification of the SEPP shall remain in force from the date the biodiversity certification order takes effect until 30 June 2025.

VERITY FIRTH, M.P. Minister Assisting the Minister for Climate Change, Environment and Water (Environment)

Signed at Sydney, this 11th day of December 2007.

SCHEDULE 1 – CONDITIONS OF BIODIVERSITY CERTIFICATION

Definitions

In Schedules 1 to 4:

- "Act" means the Threatened Species Conservation Act 1995.
- "biodiversity certification maps" means the maps marked "North West Growth Centre Biodiversity Certification" and "South West Growth Centre Biodiversity Certification" dated November 2007 and included in Schedule 2.
- "biodiversity values" has the same meaning as in the Act.
- "certified area" means an area marked as a certified area on a biodiversity certification map.
- "clearing" of existing native vegetation means any one or more of the following:
 - (a) cutting down, felling, thinning, logging or removing existing native vegetation in whole or in part,
 - (b) killing, destroying, poisoning, ringbarking, uprooting or burning existing native vegetation in whole or in part.
- "conditions of biodiversity certification" means Schedules 1 to 4.
- "conservation agreement" means:
 - (a) a conservation agreement under the National Parks and Wildlife Act 1974,
 - (b) a biobanking agreement under Part 7A of the Act,
 - (c) a planning agreement under the *Environmental Planning and Assessment Act* 1979, where the agreement provides for the conservation and/or enhancement of the biodiversity values of an area of land to which the agreement relates, or
 - (c) a legally binding agreement that provides for the conservation and/or enhancement of the biodiversity values of an area of land.
- "Conservation Fund" means the Fund referred to in condition 21.
- "conservation value" includes, but is not limited to, vegetation type, condition and rarity.
- "draft Growth Centres Conservation Plan" means the document titled "Growth Centres Conservation Plan Exhibition Draft" prepared by the GCC dated February 2007 and placed on public exhibition in February 2007.
- "existing native vegetation" means areas of indigenous trees (including any sapling) that:
 - (a) had 10% or greater over-storey canopy cover present,
 - (b) were equal to or greater than 0.5 ha in area, and
 - (c) were identified as "vegetation" on maps 4 and 5 of the draft Growth Centres Conservation Plan,

at the time the biodiversity certification order took effect, subject to condition 13.

- "DECC" means the Director-General of the Department of Environment and Climate Change.
- "financial year" means the twelve month period from 1 July to 30 June.
- "GCC" means the Growth Centres Commission constituted under the *Growth Centres (Development Corporations) Act 1974.*
- "Growth Centre" has the same meaning as in the SEPP.
- "Growth Centres Development Code" means the document with that title produced by the GCC (dated October 2006) as updated and in force from time to time.
- "Minister" means the Minister administering the Act.
- "Minister for Planning" means the Minister administering the *Environmental Planning and Assessment Act 1979*.
- "non-certified area" means an area marked as a non-certified area on a biodiversity certification map.
- "plan of management" means:
 - (a) a plan of management adopted under the *National Parks and Wildlife Act* 1974 or *Local Government Act* 1993, or
 - (b) a plan that provides for the management and protection of biodiversity values to the satisfaction of the DECC.
- "precinct" has the same meaning as "growth centre precinct" in the SEPP.
- "precinct plan" has the same meaning as in the Growth Centres Development Code.
- "protected area network" means a system of lands especially dedicated to the protection and maintenance of biodiversity, and of natural and associated cultural resources, and managed through legal or other effective means.
- "protection" or "protected" in relation to land means land that is protected by a land use zoning under an environmental planning instrument or public ownership arrangements that provide for the protection of biodiversity values as a priority, or another arrangement that provides in-perpetuity security for biodiversity on the subject land.
- "Report on Public Submissions" means the document titled "Growth Centres Draft Conservation Plan - Report on Public Submissions" prepared by the GCC and dated July 2007.
- "SEPP" means State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

- "Special Infrastructure Contribution Practice Note" means the document with that title prepared by the GCC (dated December 2006) as updated and in force from time to time.
- "threatened species" and "threatened species, populations and ecological communities" have the same meaning as in the Act.

Explanatory notes

- A. Nothing in this biodiversity certification order:
 - i. restricts any future decisions that may be made by the Minister under Part 7, Division 5 of the Act,
 - ii. removes, alters or over-rides any requirement to obtain any necessary approvals under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.
- B. In accordance with section 126K of the Act, following any review of the SEPP under the *Environmental Planning and Assessment Act 1979* or any rezoning of land to which the SEPP applies, the Minister is to reassess the grant of biodiversity certification to determine whether it should be maintained or modified.

General

- 1. In the event of any inconsistency between the draft Growth Centres Conservation Plan, the Report on Public Submissions and the conditions of biodiversity certification, the conditions of biodiversity certification shall prevail.
- 2. This biodiversity certification order does not affect any consent or approval granted under Part 3A, Part 4 or Part 5 of the *Environmental Planning and Assessment Act 1979* before the order took effect, or any development or activity carried out in accordance with such a consent or approval.
- 3. The Minister, from time to time and as considered appropriate, may amend the conditions of biodiversity certification in accordance with the Act to address anomalies, errors, boundary revisions and/or to take into account new information, but only if the Minister is satisfied that any amendments will not detract from the ability of the SEPP, and other relevant measures, to lead to the overall improvement or maintenance of biodiversity values. Amendments may include, but are not limited to, boundary revisions to reflect updated flood mapping and the outcomes of the assessments completed under conditions 14, 17 and 18. The Minister may, but is not required to, provide for any such amendments to be exhibited for public comment.
- 4. Copies of all final reports, maps, reviews, plans and monitoring data referred to in the conditions of biodiversity certification must be held by the GCC and made publicly available, either on request and/or by a mechanism that is broadly publicly accessible. This does not apply to material that is commercially sensitive or contains sensitive information regarding the location of threatened species, populations or ecological communities or their habitat.

Areas subject to biodiversity certification

5. Pursuant to section 126H of the Act, the biodiversity certification of the SEPP is limited to the certified areas.

<u>Note</u>: Pursuant to section 126I of the Act, developments or activities proposed to be undertaken within the certified areas do not need to undertake assessment of impacts on threatened species, populations and ecological communities, or their habitats, that would normally be required by Part 4 or 5 of the *Environmental Planning and Assessment Act 1979*.

Native vegetation to be retained within the Growth Centres

6. A minimum of 2,000 hectares of existing native vegetation must be retained and protected within the Growth Centres, either within the certified areas and/or the non-certified areas, subject to conditions 7 to 13 below.

Retention of existing native vegetation during precinct planning

7. During the precinct planning process, the GCC may determine to make areas of existing native vegetation within the non-certified areas available for development if the clearance of such vegetation is considered necessary for either the provision of essential infrastructure and/or to meet the required Development Parameters specified in the Growth Centres Development Code.

- 8. In making a determination under condition 7, the GCC must demonstrate by way of information provided during the public exhibition of the precinct plan (where that exhibition occurs after this order takes effect) that the clearing of any existing native vegetation in the non-certified areas will be offset by:
 - a. the protection of an equal or greater area of existing native vegetation elsewhere in the Growth Centres; and/or
 - b. the revegetation and/or restoration of an area of land elsewhere in the Growth Centres, subject to satisfying the following,
 - that the clearance of existing native vegetation in the non-certified areas will not affect the capacity to achieve overall improvement or maintenance of biodiversity values for threatened species, populations and ecological communities and their habitats,
 - ii. the revegetated and/or restored areas will be protected,
 - iii. the extent of revegetation and/or restoration compared to clearing of existing native vegetation must be undertaken at a ratio of at least 3:1 (to reflect the greater ecological risks relative to retaining existing native vegetation),
 - iv. areas subject to revegetation and/or restoration must be of a suitable boundary configuration and design to support long-term management,
 - v. revegetation and/or restoration of the proposed areas would not be undertaken under another scheme or regulatory requirement already in operation at the time that the clearing is approved (this includes but is not limited to any approvals, and associated conditions of such approvals, that may be required under the *Rivers and Foreshores Improvement Act 1948* and *Water Management Act 2000*),
 - vi. revegetation and/or restoration will be undertaken by suitably qualified and experienced persons using indigenous plant stock, and
 - vii. sufficient resources will be made available to undertake the revegetation and/or restoration and any necessary follow-up maintenance and monitoring for a minimum period of 5 years following the commencement of the revegetation and/or restoration.
- 9. Revegetation and/or restoration may be partly counted towards meeting the overall requirement to protect 2,000 hectares of existing vegetation required in condition 6. The amount that may be counted shall be calculated by dividing the total area of revegetation and/or restoration required under condition 8b(iii) by 3.

Note: for example, if 9 hectares of revegetation is undertaken then 3 hectares may be counted.

• Retention of existing native vegetation during development

10. In the non-certified areas, proposals to clear existing native vegetation shall be subject to the relevant development controls in the SEPP and Sydney Regional Environmental Plan No. 31 – Regional Parklands, and the requirements of the Environmental Planning and Assessment Act 1979.

11. Where there are essential infrastructure proposals, including but not limited to proposals under Part 3A of the *Environmental Planning and Assessment Act* 1979, that involve clearing of existing native vegetation in the non-certified areas and that do not require development consent under the SEPP, such clearing must be offset by applying the same requirements specified in condition 8 above.

In this case the offsets may be located outside of the Growth Centres (but within the Cumberland Plain of Western Sydney, as defined in condition 32) if the GCC is satisfied that there are no practicable offset options within the Growth Centres and all other requirements of condition 8 will be met. However, any offsets outside the Growth Centres cannot be counted towards meeting the requirements of condition 6.

Retention of existing native vegetation shown in areas marked with red hatching

12. Notwithstanding any other conditions of biodiversity certification, in the lands marked by a red hatching on the biodiversity certification maps existing native vegetation must not be cleared unless it is in accordance with a plan of management or unless such clearance has been agreed to by the DECC.

Ground-truthing of existing native vegetation

13. If new information becomes available after the biodiversity certification order took effect that demonstrates that the vegetation within an area does not otherwise meet the definition of existing native vegetation, then for the purposes of conditions 7 to 8 and condition 11 to 12 only the area of confirmed existing native vegetation shall be considered.

Additional conservation actions within the Growth Centres – native vegetation

- 14. During or before the preparation of the relevant precinct plan(s) under the Growth Centres Development Code, a further detailed assessment must be undertaken of the areas adjoining or proximate to the Shanes Park Air Services Australia site marked in blue hatching on the biodiversity certification maps.
- 15. The assessment referred to in condition 14 must examine whether the areas meet the criteria specified in Schedule 3.
- 16. Based on the outcomes of the assessment the DECC shall provide advice to the Minister on whether the areas should be included within the certified areas or the non-certified areas shown on the biodiversity certification maps.

Additional conservation actions within the Growth Centres – plants

17. During or before the preparation of the relevant precinct plan(s) under the Growth Centres Development Code relating to the areas referred to in the table below, the following actions must be undertaken:

Species	Required action
Acacia pubescens	Potential populations at Cross Street, Kemps Creek and Thirty- second Avenue, Austral – as shown in black hatching on the biodiversity certification maps:
	survey to confirm the presence of the species, and

	 if the species is present, provide for the protection of the area of suitable habitat for the species to the satisfaction of the DECC.
Pimelea spicata	Potential populations at Denham Court Road - as shown in black hatching on the biodiversity certification maps:
	 survey to confirm the presence of species, and if the species is present, provide for the protection of the area of suitable habitat for the species to the satisfaction of the DECC.
Persoonia hirsuta	<u>Potential populations at North Kellvville</u> – as shown in black hatching on the biodiversity certification maps:
	 survey to confirm the presence of the species, and if the species is present, provide for the protection of the area of suitable habitat for the species to the satisfaction of the DECC.
Leucopogon fletcheri	Known population at North Kellyville - as shown in black hatching on the biodiversity certification maps:
	 survey to confirm the extent of the population, and provide for the protection of the population to the satisfaction of the DECC.
Darwinia biflora Hibbertia superans Epacris purpurascens	Known populations at North Kellyville - as shown in black hatching on the biodiversity certification maps:
var purpurascens Eucalyptus sp "Cattai"	 survey to confirm the extent of the populations, and provide for the protection of the populations to the satisfaction of the DECC.

<u>Note</u>: On completion of the above actions the Minister may decide that it is appropriate to amend the boundaries of the area subject to biodiversity certification, in accordance with condition 3.

Additional conservation actions within the Growth Centres – animals

18. During or before the preparation of the relevant precinct plan(s) under the Growth Centres Development Code relating to the area referred to in the table below, the following actions must be undertaken:

Species	Required action
Green and Golden Bell Frog	Potential population at Riverstone - as shown in black hatching on the biodiversity certification maps:
	 Option 1 survey to confirm the presence of the species, and if the species is present, provide protection of the area of suitable habitat for the species to the satisfaction of the DECC.
	Option 2
	 if the species is present at Riverstone but cannot be adequately protected to the satisfaction of the DECC,

(a) undertake targeted survey to confirm	
presence of the species elsewhere in the Gr Centres, and (b) if the species is present elsewhere in the Gr Centres, provide for the protection of an ard of suitable habitat for the species to satisfaction of the DECC.	Growth Growth area(s)

<u>Note</u>: On completion of the above actions the Minister may decide that it is appropriate to amend the boundaries of the area subject to biodiversity certification, in accordance with condition 3.

<u>Additional conservation actions within the Growth Centres – development sites</u>

- 19. Within twelve months of the biodiversity certification order taking effect, the GCC (in consultation with the DECC) must put in place procedures so that all future precinct plans (excluding any plans that were publicly exhibited before the biodiversity certification order took effect), where practicable, provide for the appropriate re-use of:
 - a. native plants (including but not limited to seed collection) and the relocation of native animals from development sites, prior to development commencing; and
 - b. top soil from development sites that contain known or potential native seed bank.

For the purposes of condition 19a and 19b appropriate uses may include, but are not limited to, application in re-vegetation or restoration works and landscaping in the Growth Centres.

Conservation Fund

- 20. For the purposes of the conditions of biodiversity certification, references to dollar values are taken to be 2005/2006 values. All values shall be indexed in accordance with the "land index" to be published by the GCC, as detailed in the Special Infrastructure Contribution Practice Note.
- 21. Over the life of the development of the Growth Centres funding shall be provided to establish a Conservation Fund of at least \$530 million to be used for biodiversity conservation and regional open space purposes. \$397.5 million of the Conservation Fund is planned to be used to acquire lands and/or enter into conservation agreements over lands that are <u>outside</u> of the Growth Centres for the primary purpose of biodiversity conservation.

Timing and delivery of conservation funding

- 22. For that portion of the Conservation Fund that is to be used to fund the purchase and/or entering into conservation agreements over lands that are <u>outside</u> the Growth Centres, the following conditions apply:
 - a. commencing in the 2008/2009 financial year, and continuing every financial year thereafter until the Conservation Fund is exhausted, the

GCC must work with DECC to arrange for the provision of an annual contribution to fund these actions outside the Growth Centres in accordance with an indicative ten-year timetable of payments to be submitted by the GCC for approval of the Minister within six months of the date of this certification order. Once approved, the indicative timetable shall be incorporated as Schedule 4 of the biodiversity certification order in accordance with condition 3;

- b. the indicative ten-year timetable of payments is to be generally prepared by determining the proportion of total remaining lot production in the Growth Centres that is expected to occur within a given financial year and to then allocate for that financial year the same proportion of the remaining amount of the planned \$397.5 million funding that has not been previously allocated;
- c. to ensure adequate tracking of payments against the planned \$397.5 million allocation, the GCC must ensure that the indicative ten-year payment timetable identifies the payments in both current and equivalent 2005/06 dollar values:
- d. an updated indicative ten-year payment timetable (to provide details of the payments for the subsequent ten years) must be provided annually (by June of each financial year) by the GCC to the DECC;
- e. the annual contributions must be used for the purposes detailed in conditions 23 and 24 below:
- f. notwithstanding conditions 22a to 22e inclusive, if requested by the DECC the GCC must use its best endeavours to support the provision of additional funding contributions to accelerate land acquisition and/or conservation agreements over land outside the Growth Centres in any given financial year. The following conditions also apply,
 - if an additional contribution is obtained in a given financial year, the GCC and DECC shall determine how subsequent annual contributions are to be reduced to account for the additional contributions in that financial year, and
 - ii. if, despite best endeavours, an additional contribution is not obtained, the provisions of condition 27 will not be triggered with respect to this additional amount.

Use of conservation funding

- 23. As stated in condition 21, \$397.5 million of the Conservation Fund is planned to be used by the DECC to arrange for the purchase and/or establishment of conservation agreements over lands <u>outside</u> the Growth Centres for the primary purpose of biodiversity conservation. This portion of the Conservation Fund must be allocated in accordance with the preferences for location and conservation values that are detailed in conditions 32, 33 and 34.
- 24. As part of the use of funds under condition 23, the DECC may arrange for allocation of a reasonable proportion towards the administration costs of purchasing land and/or entering into conservation agreements, and for the initial management costs of purchased land. However, from the commencement of the 2012/2013 financial year any such allocations must not exceed 5% of the annual

- contribution from the Conservation Fund for the purchase and/or establishment of conservation agreements over lands <u>outside</u> the Growth Centres in any single financial year.
- 25. Funding that is planned to be allocated from the Conservation Fund within the Growth Centres shall be used to fund the purchase of lands as identified in the SEPP (as gazetted in July 2006), or the establishment of conservation agreements over an area or areas of land within the Growth Centres.

Timing of expenditure

26. The DECC must use its best endeavours to ensure that funds allocated within a financial year for the purchase and/or establishment of conservation agreements over lands <u>outside</u> the Growth Centres are allocated for those purposes as expeditiously as possible.

Non-delivery of funding

- 27. Despite the requirements of condition 22, if in any financial year ("the first financial year") the full annual contribution is not provided then:
 - a. the Minister must consult with the Minister for Planning regarding the continued operation of section 126l of the Act in relation to the certified areas; and
 - b. based on the outcomes of that consultation, if the Minister is satisfied that appropriate arrangements have been put in place to rectify the funding shortfall then section 126l shall continue to have effect for the certified areas; or
 - c. the Minister shall determine whether to suspend or revoke the biodiversity certification order in accordance with the Act.
- 28. If no decision has been made in accordance with conditions 27b or 27c within six months of the end of the relevant financial year, then the provisions of section 126l of the Act are taken to no longer have effect in relation to the certified areas, until such time as the outstanding contribution is provided or the Minister is satisfied that appropriate arrangements have been put in place to rectify the funding shortfall. This condition does not affect any consent or approval granted under Part 3A, Part 4 or Part 5 of the *Environmental Planning and Assessment Act 1979* before the condition took effect, or any development or activity carried out in accordance with such a consent or approval.

For the purposes of condition 27 and 28, "rectify" means amending the indicative timetable referred to in condition 22 to ensure that within four financial years of the first financial year the level of funding provided will be at least equal to the amount of funding that would otherwise have been provided by that time under the provisions of condition 22, or achievement of a comparable or better conservation outcome to the satisfaction of the Minister.

29. Conditions 27 and 28 do not have effect where the annual contribution required under condition 22 has not been provided because the balance of unspent funding being held in the Conservation Fund for the purchase and/or establishment of conservation agreements over lands <u>outside</u> the Growth Centres has reached a limit to be determined by the Minister.

Reporting

- 30. Commencing at the end of the 2008/2009 financial year, and at the end of every financial year thereafter until the Conservation Fund is exhausted, the GCC must provide the following information to the DECC within 2 months of the end of the relevant financial year:
 - a. an estimate of the amount of existing native vegetation, specified by vegetation community type, that has been cleared within the Growth Centres. This may be based on, but is not limited to, the use of information on subdivision development approvals as a surrogate measurement for clearing, or some other basis agreed between the GCC and DECC.
- 31. Commencing at the end of the 2008/2009 financial year, and at the end of every financial year thereafter until the Conservation Fund is exhausted, the DECC must arrange for the publication of a report detailing the following matters:
 - a. the information provided in condition 30;
 - b. the amount of funding provided from the Conservation Fund in the financial year for the purchase and/or establishment of conservation agreements over lands <u>outside</u> the Growth Centres;
 - c. the amount expended in the financial year, including the amount spent on land purchase, conservation agreements, administration and initial management costs for purchased land;
 - d. a summary of the conservation outcomes achieved by that expenditure; and
 - e. the predicted funding provision for the program for the next 10 years.

Location of expenditure of funds

32. The funding identified in condition 23 must be spent within the following locations in the order of preference identified below.

First Preference: Priority areas within the Cumberland Plain

- a. First preference shall be allocated every financial year to the purchase of land and/or entering into conservation agreements over land that is:
 - identified as "Regional Biodiversity Corridors" and "Western Sydney Priority Areas" on the map labelled "Regional Biodiversity Corridors and priority fauna habitats" in the Hawkesbury Nepean Catchment Action Plan; AND
 - also occurs within the Cumberland Plain of Western Sydney; AND
 - generally meets the criteria specified in condition 33.

Where there is insufficient available land, or the cost-effectiveness of purchasing and/or entering into conservation agreements over lands in the above category is considered by the DECC to be too low, or the criteria in condition 33 cannot be met, then the funding may be allocated by DECC to be used on lands in accordance with condition 32b below.

Second Preference: Priority areas within the Hawkesbury Nepean Catchment

- b. As second preference, funding shall be allocated every financial year to the purchase of land and/or entering into conservation agreements over land that is:
 - identified as "Regional Biodiversity Corridors" and "Western Sydney Priority Areas" on the map labelled "Regional Biodiversity Corridors and priority fauna habitats" in the Hawkesbury Nepean Catchment Action Plan; AND
 - is not identified in condition 32a; AND
 - generally meets the criteria specified in condition 33.

Where there is insufficient available land, or the cost-effectiveness of purchasing and/or entering into conservation agreements over lands in the above category is considered by the DECC to be too low, or the criteria in condition 33 cannot be met, then the funding may be allocated by DECC to be used on lands in accordance with condition 32c below.

<u>Third Preference: Grassy Woodlands within the Hawkesbury Nepean</u> Catchment

- c. As third preference, funding shall be allocated every financial year to the purchase of land and/or entering into conservation agreements over lands that:
 - contain grassy woodlands within the Hawkesbury Nepean Catchment; AND
 - are not identified in conditions 32a or 32b; AND
 - generally meets the criteria specified in condition 33.

Where there is insufficient available land, or the cost-effectiveness of purchasing and/or entering into conservation agreements over lands in the above category is considered by the DECC to be too low, or the criteria in condition 33 cannot be met then the funding may be allocated by DECC to be used on lands in accordance with condition 32d below.

Fourth Preference: Grassy Woodlands within the Sydney Basin

- d. As fourth preference, funding shall be allocated every financial year to the purchase of land and/or entering into conservation agreements over lands that satisfy the following criteria:
 - land containing grassy woodlands within the Sydney Basin; AND
 - that is not identified in conditions 32a, 32b or 32c; AND
 - generally meets the criteria specified in condition 33.

Where there is insufficient available land, or the cost-effectiveness of purchasing and/or entering into conservation agreements over lands in the above category is considered too low, or the criteria in condition 33 cannot be met, then the funding may be allocated by DECC to be used on lands in accordance with condition 32e below.

Fifth Preference: other lands identified by the DECC

- e. As fifth preference, funding shall be allocated every financial year to the purchase of land and/or entering into conservation agreements over land that is:
 - within the Sydney Basin; AND
 - is not identified in conditions 32a, 32b, 32c or 32d; AND
 - generally meets the criteria specified in condition 33.

For the purposes of condition 32:

- "cost-effectiveness" means a consideration of the conservation objectives that
 would be achieved by purchasing or entering into a conservation agreement
 for a parcel of land and the cost of the purchase and/or conservation
 agreement, relative to the cost of achieving the same or similar conservation
 objectives on other parcels of land within the Sydney Basin.
- "Cumberland Plain of Western Sydney" means the geographic area by that name as identified in National Parks and Wildlife Service (2000), The native vegetation of the Cumberland Plain, Western Sydney – Technical Report, NSW NPWS, Hurstville.
- "grassy woodlands" mean the vegetation formation by that name as defined in Keith, D. (2004), Ocean shores to desert dunes: the native vegetation of New South Wales and the ACT. NSW Department of Environment and Conservation. Hurstville, NSW.
- "Hawkesbury Nepean Catchment" means the area of land described in the Hawkesbury Nepean Catchment Action Plan.
- "Hawkesbury Nepean Catchment Action Plan" means the Hawkesbury-Nepean Catchment Action Plan 2007-2016 published by the Hawkesbury-Nepean Catchment Management Authority (October 2006).

 "Sydney Basin" means the areas as defined by Environment Australia (2000), Revision of the Interim Biogeographic Regionalisation for Australia (IBRA) and development of Version 5.1 – Summary Report. Department of Environment and Heritage, Canberra.

Conservation values to be protected through the expenditure of funds

- 33. Within each area specified in condition 32, the lands to be targeted for purchase and/or conservation agreement outside the Growth Centres shall be guided by consideration of the following criteria:
 - large remnants of intact native vegetation with the greatest potential for retaining biodiversity values over time;
 - vegetation communities that are under-represented in the protected area network;
 - areas of equivalent or better conservation value to that which are to be cleared within the Growth Centres;
 - areas that contain habitat for threatened species, including but not limited to species to be affected by development of the Growth Centres:
 - areas that have the highest cost effectiveness;
 - conservation reserve design principles, such as size, boundary configuration and landscape context;
 - previous land uses;
 - likely threats (such as existing or future adjoining land uses); and
 - availability (including the willingness of landowners to either sell land or place it under a conservation agreement). For the purpose of clarification, no land is intended to be compulsory acquired in order to meet any of the conditions of biodiversity certification.

For the purposes of this condition, and the avoidance of doubt, the above attributes are to be considered and applied as a guide only.

34. The lands to be targeted for purchase and/or conservation agreement <u>outside</u> the Growth Centres must include a known population(s) or suitable habitat for the plant species *Cynanchum elegans*.

<u>Note</u>: this action is required to ensure an appropriate improve or maintain outcome for this species, which occurs in the Growth Centres but is not currently protected by measures under the Growth Centres SEPP.

Future precinct plans

35. During the preparation of future precinct plans (excluding any precinct plans already publicly exhibited before this order took effect) the GCC must undertake and make publicly available an assessment of the consistency of the proposed precinct plan with the conditions of biodiversity certification. This may occur during or before any public exhibition of future draft precinct plans.

Future threatened species listings or discoveries

36. Where a preliminary determination is made under the Act to list a species, population or ecological community, and that species, population or ecological

community may or is known to occur within the Growth Centres, then the GCC must (as soon as practicable) provide advice to the DECC on whether:

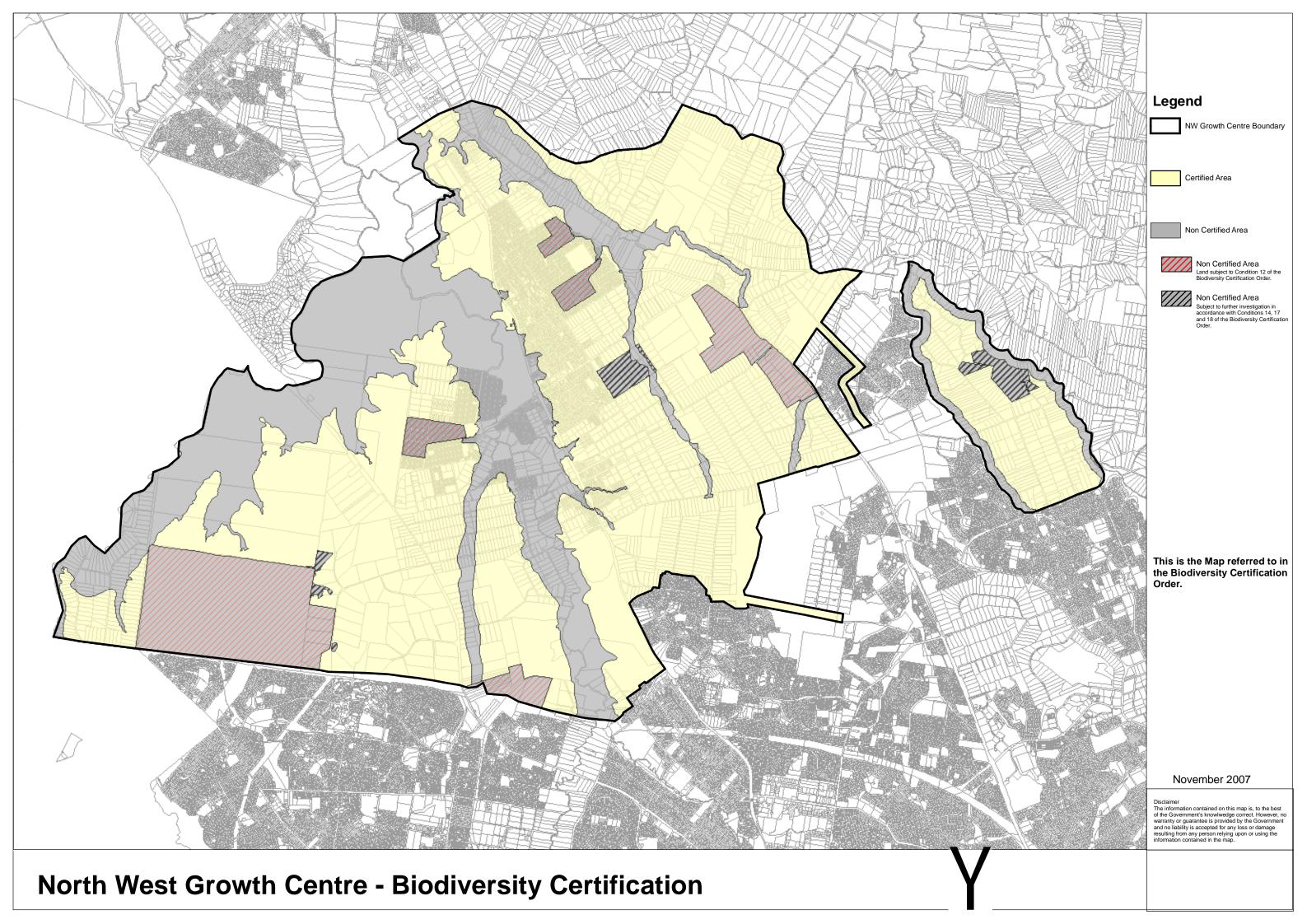
- a. the species, population or ecological community is known or likely to be present in the Growth Centres;
- b. it was considered during the preparation of the draft Growth Centres Conservation Plan by the GCC; and
- c. whether the SEPP, and related measures, provides adequate protection for the species, population or ecological community.
- 37. Based on the information provided in accordance with condition 36, and any other relevant matters, the DECC shall advise the Minister on whether to formally review, maintain, modify, suspend or revoke the biodiversity certification of the SEPP if the species, population or ecological community is listed under the Act.

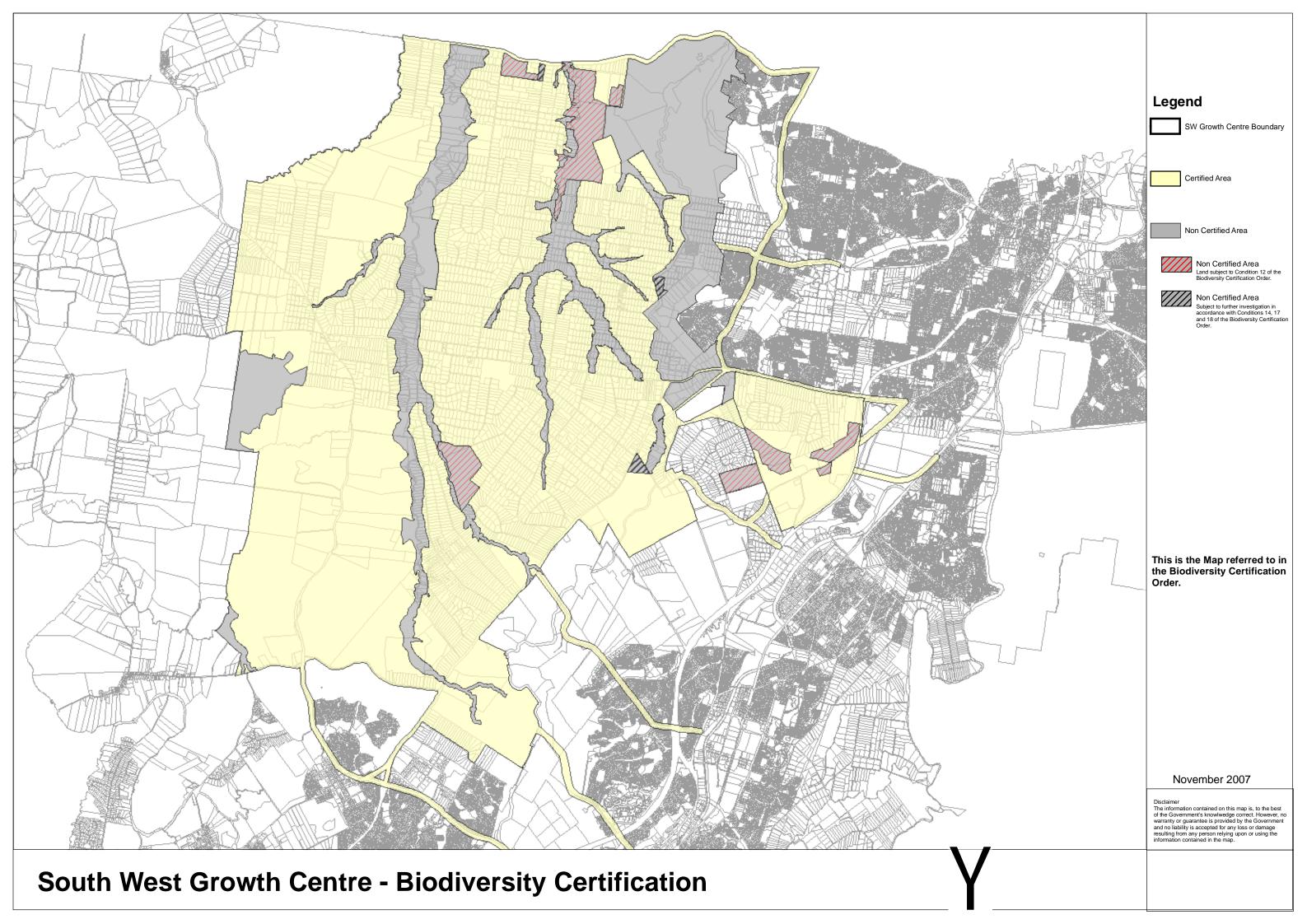
Review

- 38. A review of the biodiversity certification of the SEPP must be undertaken by the DECC every four years after the biodiversity certification order takes effect (to be completed within two months of each four year anniversary). The timing of the review may be adjusted by DECC to coincide with any planned review of the operation of the Special Infrastructure Contribution within the Growth Centres.
- 39. The purpose of the review is to assess progress in achieving an overall improvement or maintenance of biodiversity values, including review of the arrangements for the provision of funds to the Conservation Fund and the allocation of those funds within and outside of the Growth Centres.
- 40. To assist in the review required under condition 38, the GCC must provide the following information to the DECC in a timely manner:
 - a. an estimate of the amount of existing native vegetation, specified by vegetation community type, that has been cleared within the Growth Centres, including maps of known locations, within the four year period (or adjusted period);
 - b. progress in achieving the requirements of condition 6, including the following.
 - i. the amount of existing native vegetation that has been retained and protected within planning precincts,
 - ii. the amount of revegetation and/or restoration that has occurred (or is planned to occur) within planning precincts,
 - iii. an indicative estimate of the amount of existing native vegetation, and the amount of revegetated and/or restored areas, planned to be protected in the remaining precincts within the Growth Centres that are yet to be released:
 - c. an overview of any amendments to the SEPP or related measures that have occurred within the four year period (or adjusted period);
 - d. any recommendations that would improve the operation of the conditions of biodiversity certification including, but not limited to, any modifications

- or revisions to the conditions themselves and the arrangements for management and allocation of funds from the Conservation Fund; and
- e. any other information that is considered relevant by the DECC to assist in reviewing whether the SEPP, and any other relevant measures, will continue to lead to the overall improvement or maintenance of biodiversity values.
- 41. Based on the information provided under condition 40, and any other relevant matters, the DECC shall advise the Minister on whether biodiversity certification should be maintained, modified, suspended or revoked.

SCHEDULE 2 – BIODIVERSITY CERTIFICATION MAPS





<u>SCHEDULE 3 – CRITERIA REFERRED TO IN CONDITION 15</u>

The following are the criteria referred to in condition 15 of Schedule 1.

Whether the areas:

- a. contain an endangered ecological community as listed under the Act;
- b. are contiguous with the existing native vegetation on the Air Services Australia site:
- c. are equal to or greater than 4 hectares;
- d. have 10% or greater canopy cover;
- e. have 30% or greater vegetation cover within,
 - i. a 0.55 kilometre radius (for local connectivity), and
 - ii. a 1.75 kilometre radius (for regional connectivity),

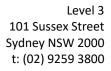
as measured from the approximate centre point of each area;

- f. have a perimeter to area ratio that is conducive to on-going conservation management; and
- g. whether after applying a 50 metre disturbance buffer to the edge of each area (where that edge is likely to be made available for future urban development as identified in the SEPP), the overall size of the area then falls below 4 hectares.

SCHEDULE 4 – INDICATIVE TEN YEAR PAYMENT TIMETABLE

The following timetable is that referred to in condition 22 of Schedule 1.

Financial year	Amount in current dollars (\$ million)	Amount in 2005/06 dollars (\$ million)
2008/09	1.0	1.0
2009/10	3.0	3.0
2010/11	5.8	5.8
2011/12	8.8	8.8
2012/13	10.4	10.4
2013/14	12.1	12.1
2014/15	12.9	12.9
2015/16	14.1	14.1
2016/17	15.1	15.1
2017/18	15.8	15.8



1



14 July 2022

Our ref: SYD - 2235

Landcom

Level 14, 60 Station Street Parramatta NSW 2150

Attention: Thomas Gianatti

Dear Thomas,

Edmondson Park Precinct 3 – Watercourse Validation Letter

This report addresses aquatic and riparian legislation and policy relevant to the proposed urban development, known as 'Precinct 3', on three lots within the Liverpool City Council Local Government Area (Table 1).

This report provides a brief review of legislation and constraints to the proposed development. This assessment focused on riparian management and threatened fish species and does not include terrestrial flora and fauna that would be assessed under other legislation.

The report focuses on the western and eastern watercourses. The overall findings of this report are that the start of the western 'river' as defined under the NSW *Water Management Act 2000* (WM Act) occurs approximately 230 m downstream and the eastern 'river' approximately 20 m downstream of the existing state hydroline map. As such, the upper 230 m of the western 1st order stream and 20 m of the eastern 1st order stream would not be classed as 'waterfront land' by the Natural Resources Access Regulator (NRAR).

The proposed development of R1 zoned residential land is anticipated to require a Controlled Activity Approval (CAA) under the WM Act as it falls within 40 m of a 'river'.

Regards,

Geraint Breese

Senior Environmental Consultant

1. Study Area Description

The study area is comprised of three lots and is located approximately 30 km southwest of Sydney's central business district. Information about the study area is summarised in Table 1.

Table 1 Study area description

Category	Description		
Address	Campbelltown Road, Edmondson Park NSW 2174		
Lot	Lot 2//DP1272931		
	Lot 3//DP1272931		
	Lot 5//DP1272931		
Local Government Authority	Liverpool City Council		
Land Zoning	C1 - National Parks and Nature Reserves, R1 - General Residential, RE1 - Public Recreation:		
Current Use	Bushland, and vacant land		
Surface Covering and Vegetation	2016 mapping from Office of Environment and Heritage identified the following vegetation types with the study area:		
	 PCT849 Greybox – Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion 		
	PCT850 Greybox – Forest Red Gum grassy woodland on shale of the Cumberland Plain, Sydney Basin Bioregion		
	Urban exotic/Native		
	For reference see Figure 1.		
Hydroline Mapped Water Courses	There are two 1^{st} order watercourses mapped in or near the study area (Figure 1). The watercourse to the west transects the study area. The watercourse to the east is outside of the study area, however the waterfront land associated to this watercourse extends within the study area.		

2. Proposal

Landcom is proposing to deliver approximately 270 new dwellings and associated infrastructure in an area of 11 ha. The development will comprise of vegetation removal, subdivision of land for residential purposes, the construction of infrastructure and dwellings, as well as the provision of passive and active open space.

3. Legislative Context

Legislation	Application	Result	Recommendations
NSW Water Management Act (WM Act)	The NSW NRAR is required to assess 'controlled activities' defined under the WM Act that are carried out on 'waterfront land'. Permission is obtained through a CAA via an Integrated Development Application. 'Controlled activities' means:	Within and adjacent to the study area, two unnamed 1st order stream were identified on the Water Management (General) Regulation 2018 hydroline spatial data 1.0. For this report, the author (Environmental Consultant) inspected the site to validate the location of the 'rivers'. The upper 230 m of the DPI hydroline to the west of the study area did not meet the definition of a 'river' as it had no bed, bank, or evidence of geomorphic processes. The start of the 'river' is identified in Figure 4, with a 40 m waterfront land buffer applied from the top of the bank. A 10 m VRZ has been applied to this section of the 1st order river. Supporting photos are presented in Figure 6. The upper 20 m of the DPI hydroline to the northeast of the study area did not meet the definition of a 'river' as it had no bed, bank, or evidence of geomorphic processes. The start of the 'river' is identified in Figure 4, with a 40 m waterfront land buffer applied from the top of the bank. A 10 m VRZ has been applied to this section of the 1st order river. Supporting photos are presented in Figure 7.	A CAA is required if work is located on waterfront land (Figure 4) An average 10 m wide VRZ is required to be retained and managed on each side of the waterway. Development is permitted to encroach up to half of that width (50% VRZ, see Figure 4) if an equal area is offset elsewhere to provide an average 10 m VRZ width. Some permissible uses within the VRZ that do not trigger offsets are summarised in with further information described in NRAR's Guidelines for controlled activities on waterfront land Areas marked in as 'not a river' are not waterfront land and would not trigger a CAA. This report should be submitted with the DA.

Legislation	Application	Result	Recommendations		
NSW Fisheries Management 1994 Act (FM Act)	Under Part 7 of the FM Act, where the waterway meets the definition of 'key fish habitat' (KFH), permission is required to:	The waterway assessed in this report is not mapped as KFH by DPI Fisheries and does not meet the definition of KFH as described in Fairfull 2013.			
	 disturb the bed or bank (dredging and/or reclamation) obstruct fish passage harm marine vegetation. Part 7A and Schedules 4, 4A and 5 of the FM Act lists threatened fish species to be assessed for impacts. 	No threatened fish species have the potential to occur in this waterway. Riches et al. 2016 have modelled the nearest threatened species, the Macquarie Perch, in the Georges Rivers approx. 10 km to the southeast of the site. No habitat for other threatened aquatic species occurs in these watercourses (e.g., Adam's Emerald Dragonfly and Sydney Hawk Dragonfly).			
Liverpool Local Environmental Plan 2008(LEP)	The LEP includes aims to "protect to improve public access along waterways and vegetated corridors while ensuring the natural environmental values of riparian and bushland corridors and the habitat they provide are protected and enhanced". The LEP only includes controls for proposed development on the Georges or Nepean River.	The are no specific controls under the LEP in relation to riparian land and water courses other than the Georges and Nepean River.	NRAR's guidelines for riparian corridors should be applied to areas mapped as waterfront land (see discussion above for WM Act).		
NSW Environmental Planning and Assessment Act 1979 (EP&A Act)	Under Section 79C of the EP&A Act, Council is required to take into consideration the relevant provisions of the Development Control Plan (DCP) when determining a development application. Section 7 of the Liverpool Development Control Plan 2008 describes the controls for development near a watercourse. There is only one control in this section which states that a controlled activity may apply for development waterfront land. As such this is addressed above in the section discussing the relevance of the WM Act.	This is addressed above in the section discussing the relevance of the WM Act.	This is addressed above in the section discussing the relevance of the WM Act.		

Legislation	Application	Result	Recommendations
Commonwealth	Matters of National Environmental Significance include	Riches et al. 2016 have modelled the nearest	Not a constraint to the development (for aquatic
Environment	nationally threatened fish species and populations.	threatened species, the Macquarie Perch, in the	species)
Protection and		Georges Rivers approx. 10 km to the southeast of	
Biodiversity		the site. No habitat exists for Australian Grayling.	
Conservation Act			
1999 (EPBC Act)			



Figure 1: DPI Hydroline and existing vegetation mapping (Office of Environment and Heritage, 2016)

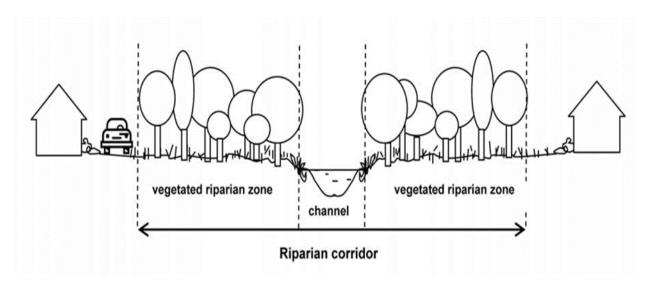


Figure 2: Riparian corridor showing the Vegetated Riparian Zone (VRZ) relative to watercourse channel (NRAR 2018).

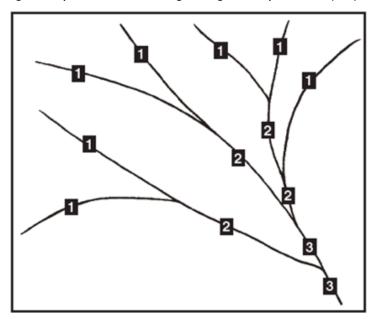


Figure 3: The Strahler system for classifying stream order (NRAR 2018).

Table 2: Riparian corridor (RC) matrix of permissible use (NRAR 2018)

Stream Vegetated RC off- order Riparian setting	setting	Cycleways Detention and paths basins		Stormwater outlet	Stream realignment	Road crossings				
	Zone for non (VRZ) RC uses		Only within 50% outer VRZ	Online	structures and essential services		Any	Culvert	Bridge	
1 st	10m	•	•	•	•	•	•	•		
2 nd	20m	•	•	•	•	•		•		
3 rd	30m	•	•	•		•			•	•
4 th +	40m	•	•	•		•			•	•

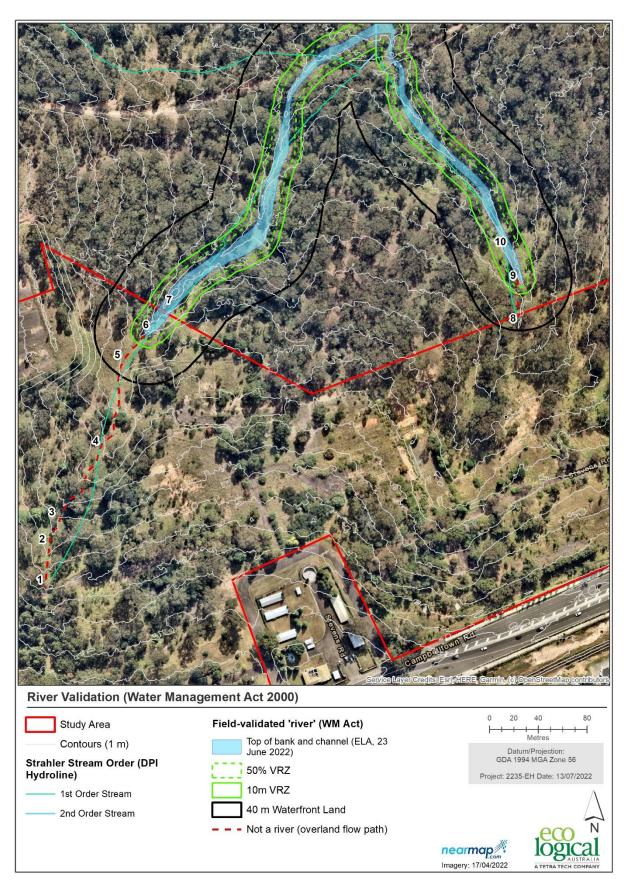


Figure 4: River validation and contours

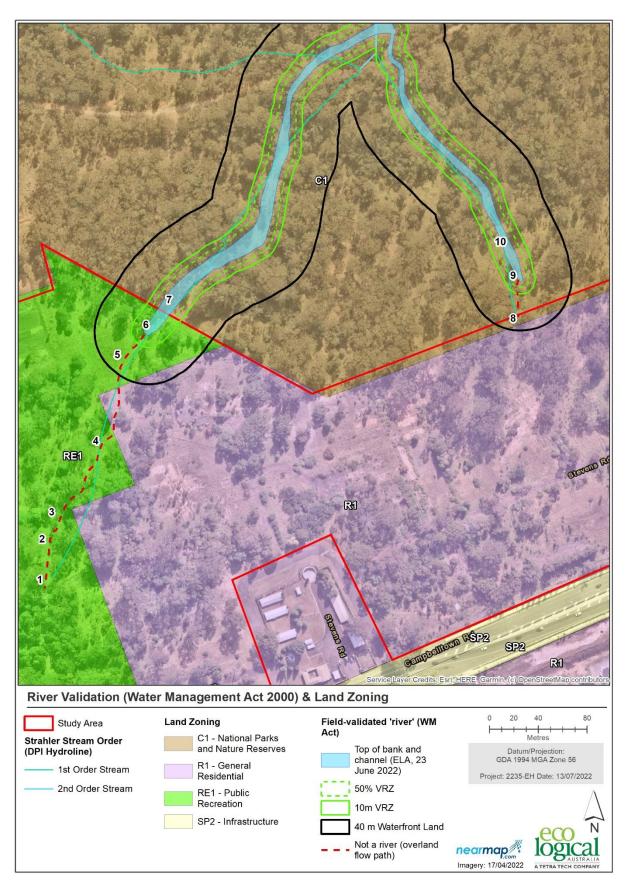


Figure 5: River validation and zoning



Figure 6: Western watercourse - site photos moving upstream to downstream



Figure 7: Eastern watercourse - site photos moving upstream to downstream



Minister for the Environment, Heritage and the Arts
on behalf of the Commonwealth of Australia
and
NSW Minister for Climate Change and the Environment
and
NSW Minister for Planning

on behalf of the Government of NSW

Agreement in relation to the development of the Edmondson
Park Precinct under the Environment Protection and
Biodiversity Conservation Act 1999 (Cth)

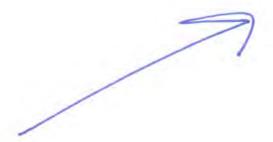


Table of Contents

Schedule 1

Schedule 2

Interpretation

1. **Definitions and Interpretation** 3 2. Commencement and Duration 3 3. Protection and Conservation of the Area 4 4. Declaration 4 5. Dispute Resolution 4 6. Review of this Agreement 5 7. Termination and Variation 5 8. Reporting 5 9. Notification 5 10. Auditing 5 11. Negation of employment, partnership and agency 6 12. Notices 6 13. **Entire Agreement** 7 14. No Waiver 7 15. **Further Assurances** 7 16. No Merger 7 17. Costs 7 18. Severance

8

10

10

11

Date	20 August	2009				
Parties						
L	Peter Garrett, Minister for the Environment, Heritage and the Arts on behalf of the Commonwealth Government, care of the Department of the Environment, Water, Heritage and the Arts, John Gorton Building, King Edward Terrace, Parkes, ACT (the <i>Minister</i>)					
2.	Carmel Tebbutt, Minister for Climate Cha (DECC), 59-61 Goulburn Street, Sydney	ange and the Environment for the State of NSW				
3.	Kristina Keneally, Minister for Planning f Sydney	for the State of NSW (DoP), 23-33 Bridge Street,				
Purpose						
A	may, on behalf of the Commonwealth, enter conservation and management of biodivers	ity, particularly of any listed species or ecological at may also provide for the mitigation or avoidance				
В		onservation agreement under section 305 of the f the Edmondson Park Precinct (the Precinct) as				
С	Plan which will include the establishment	grees to implement a Biodiversity Conservation of Regional Park, sympathetic management of Woodland and an offset package, the details of				
D	For the purposes of section 305 of the EPB Agreement will result in a net benefit to the inconsistent with a recovery plan, threat ab					
E	declaration in Clause 4 of this Agreement	satisfied that the Class of Actions to which the relates are not likely to have a significant impact at threatened species and communities, and listed the proposed development.				
F	This Agreement has the effect of binding t	he Commonwealth and the State of NSW.				

It is agreed as follows.

Definitions and Interpretation

a) Definitions

The following definitions apply unless the context requires otherwise.

Acquisition Lands means the Defence Lands to be acquired by the State for the purpose of establishing the Regional Park referred to in this Agreement

Biodiversity Conservation Plan means the Plan set out in Schedule 4.

Business Day means a day, not being a Saturday, Sunday or public holiday in Canberra, Australian Capital Territory.

Class of Actions means the class of actions set out in Schedule 3.

Cumberland Plain Woodland (CPW) means the EPBC Act threatened ecological community listed as "Cumberland Plain Woodland".

DECC means the NSW Department of Environment and Climate Change.

Defence Lands means the site of the former Ingleburn Military Camp.

DEWHA means the Australian Government Department of the Environment, Water, Heritage and the Arts.

DoP means the NSW Department of Planning.

Edmondson Park Precinct (the Precinct) means the land, as at the date of this Agreement, defined as the Edmondson Park Precinct under the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and illustrated in Map 2 of Schedule 2.

EPBC Act means the Environment Protection and Biodiversity Conservation Act 1999 (Cth).

Major Activities means the gazettal of the Regional Park or reservation of a Secure Conservation Area provided for under Schedule 4 of this Agreement.

Minister means the Minister administering the EPBC Act or a delegate of the Minister under the EPBC Act.

Parties means the parties to this Agreement.

Secure Conservation Area means land reserved under the National Parks and Wildlife Act 1974 or land subject to a biobanking agreement under the Threatened Species Conservation Act 1995.

State means the State of New South Wales.

2. Commencement and Duration

a) This Agreement shall have effect from the day of execution.

3. Protection and Conservation of the Area

- a) The State agrees that it will implement the "Biodiversity Conservation Plan" which details three key elements: the establishment of a Regional Park and associated rehabilitation measures, sympathetic management of open space, and an offset package (Schedule 4).
- b) By entering this Agreement the Minister is satisfied that the actions listed in Schedule 3 are not likely to have a significant impact on the biodiversity of the area if undertaken in accordance with Schedule 4.

4. Declaration

- a) Section 306A of the EPBC Act provides that the Minister may include in a conservation agreement a declaration to the effect that actions in a specified class do not need approval under Part 9 for the purposes of a specified provision of Part 3.
- b) For the purpose of section 306A of the EPBC Act, the Class of Actions do not require approval under Part 9 of the EPBC Act for the purposes of sections 18 and 18A, and 20 and 20A of the EPBC Act.
- c) By entering this Agreement, the Minister declares that he is satisfied that the Class of Actions to which this declaration relates are not likely to have a significant impact on the biodiversity associated with the listed threatened species and communities, and listed migratory species.

5. Dispute Resolution

- a) Any dispute arising during the course of this Agreement will be dealt with as follows:
 - The Party claiming that there is a dispute will send to the other parties a notice setting out the nature of the dispute;
 - ii) The Parties will try to resolve the dispute by direct negotiation, including by referring the dispute to a person who may have authority to intervene and direct some form of resolution. For the avoidance of doubt, if the dispute is referred to a person under this paragraph, that person will act as an independent third party umpire, and not as a mediator or arbitrator.
 - iii) The Parties have 10 Business Days from the date of the notice issued in paragraph (i) to reach a resolution or to agree that the dispute will be submitted to mediation or some other form of alternative dispute resolution procedure;
 - iv) if:

there is no resolution or agreement; or

there is a submission to meditation or some other form of alternative dispute resolution procedure, but there is not resolution within 15 Business Days of the submission, or such extended time as the parties may agree in writing before the expiration of the 15 Business Days,

then, any party may commence legal proceedings.

b) Despite the existence of a dispute, the parties will (unless requested in writing not to do so) continue to perform the Agreement.

c) This clause does not preclude the parties from commencing legal proceedings for urgency interlocutory relief or otherwise under the EPBC Act.

6. Review of this Agreement

a) A review of the operation of this Agreement, including the Schedules, is to be undertaken by the Parties at least once every five years until 2020. Failure to undertake this review will not invalidate the agreement.

7. Termination and Variation

- This Agreement may only be varied by written agreement between the Parties or otherwise in accordance with the EPBC Act.
- b) This Agreement may be terminated in the manner specified in the EPBC Act or otherwise as agreed by the Parties.

8. Reporting

- a) The State will, within two months of each anniversary of this Agreement provide the Minister with a report that will include:
 - a summary of compliance with the terms of this Agreement during the previous 12 month period;
 - ii) a summary of the actions within Schedule 3 taken under this Agreement during the previous 12 month period; and
 - iii) upcoming major activities to which this Agreement applies.
- b) These reports shall be provided on an annual basis and until development of the Precinct is complete/ or as otherwise agreed by the parties and Secure Conservation Areas have been purchased.

9. Notification

- a) The State must notify the Minister as soon as reasonably practicable after becoming aware of past or potential future material non-compliance with this Agreement.
- b) Parties will respond promptly to any correspondence from another party in relation to this Agreement.

10. Auditing

- a) The Minister, or anyone authorised in writing by the Minister, may audit the State compliance with this Agreement.
- b) Before conducting an audit under paragraph (a), the Minister must provide the State with reasonable notice that the Minister intends to conduct the audit.

- From time to time the Parties may agree to an independent audit of the application of this Agreement.
- d) The appropriate auditor and the scope of the audit conducted under paragraph (c) will be agreed by the Parties.
- e) The State agrees to fully cooperate with any audit conducted under this clause.
- f) Nothing in this clause limits the Minister's powers under the EPBC Act.

11. Negation of employment, partnership and agency

a) The State agrees not to represent itself and to ensure that its Associates do not represent themselves, as being an officer, employee, partner or agent of the Commonwealth, or as otherwise able to bind or represent the Commonwealth.

12. Notices

- Any notice, demand, consent or other communication (a Notice) given or made under this Agreement:
 - i) must be in writing and signed by the sender or a person duly authorised by the sender;
 - ii) must be addressed and delivered to the intended recipient at the address or fax number below or the address or fax number last notified by the intended recipient to the sender after the date of this Agreement:

(1) to the Commonwealth

The Department of the Environment, Water, Heritage

and the Arts GPO Box 787

Canberra ACT 2601

Attention:

First Assistant Secretary,

Approvals and Wildlife Division

Fax No: 02 6274 1600;

(2) to the State of NSW

The Department of Environment and Climate Change

PO Box A290

Sydney South NSW 1232

Attention:

Joe Woodward

Deputy Director General

Environment Protection and Regulation

Fax No: 02 9995 5197;

(3) to the State of NSW

NSW Department of Planning

GPO Box 39

Sydney NSW 2001

Attention:

Ian Reynolds

Deputy Director General

Strategies and Land Release

Fax No: 02 9895 7547;

iii) will be taken to be duly given or made when delivered, received or left at the above fax number or address. If delivery or receipt occurs on a day that is not a business day in the place to which the Notice is sent or is later than 4pm (local time) at that place, it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

13. Entire Agreement

a) This Agreement contains the entire agreement between the Parties with respect to its subject matter. It sets out the only conduct relied on by the Parties and supersedes all earlier conduct and prior agreements and understandings between the parties in connection with its subject matter.

14. No Waiver

a) A failure to exercise or a delay in exercising any right, power or remedy under this Agreement does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

15. Further Assurances

a) At the reasonable request of another Party, each party must do anything necessary (including executing agreements and documents) to give full effect to this Agreement and the transactions contemplated by it.

16. No Merger

a) The rights and obligations of the Parties will not merge on the completion of any transaction contemplated by this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

17. Costs

 Each Party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement. All stamp duty (including fines, penalties and interest) payable on or in

- connection with this Agreement and any instrument executed under or any transaction evidenced by this Agreement must be borne equally by the Parties.
- b) All relevant taxes, duties and government charges imposed or levied in Australia, now in or in the future, in connection with this Agreement will be borne by the State.

18. Severance

a) If any part of this Agreement is, or becomes, void or unenforceable, that part is or will be severed from this Agreement to the intent that all parts that are not, or do not become, void or unenforceable remain in full force and effect and are unaffected by that severance.

Signed by Peter Garrett, Minister for the Environment, Heritage and the Arts in the presence of: Witness David Brumentha	
Signed by Carmel Tebbutt, Minister for Climate Change and the Environment in the presence of: Mathew Chesher Witness Print Name	Carnel Milit
Signed by Kristina Keneally, Minister for Planning in the presence of: Market Witness Alix Carpenter Print Name	That I

Schedule 1

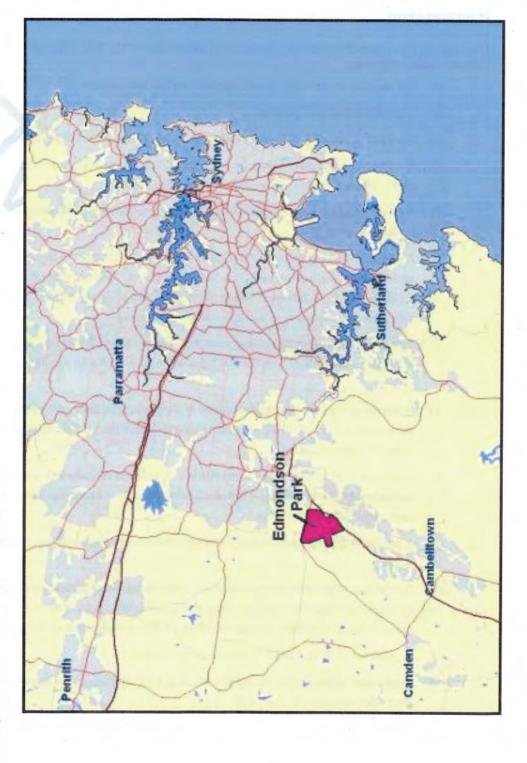
Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- a) The singular includes the plural, and the converse also applies.
- b) A gender includes all genders.
- c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- d) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- A reference to a clause, schedule or annexure is a reference to a clause, schedule or annexure to, this Agreement.
- f) A reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document, and includes the recitals and schedules and annexures to that agreement or document.
- g) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form but excludes a communication by electronic mail.
- h) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- k) A reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- 1) A reference to dollars and \$ is to Australian currency.
- m) Mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included.
- Nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or a relevant part of it.
- o) The Recitals and the schedules form part of this Agreement. Where any conflict arises between the terms and conditions contained in the clauses of this Agreement and any schedule, the clauses of this Agreement prevail.

Schedule 2

Map 1: Locality of the Edmondson Park Precinct



Map 2: Edmondson Park Precinct State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Department of Planning South West Growth Centre Edmondson Park Precinct Ocrowth Centres Boundaries

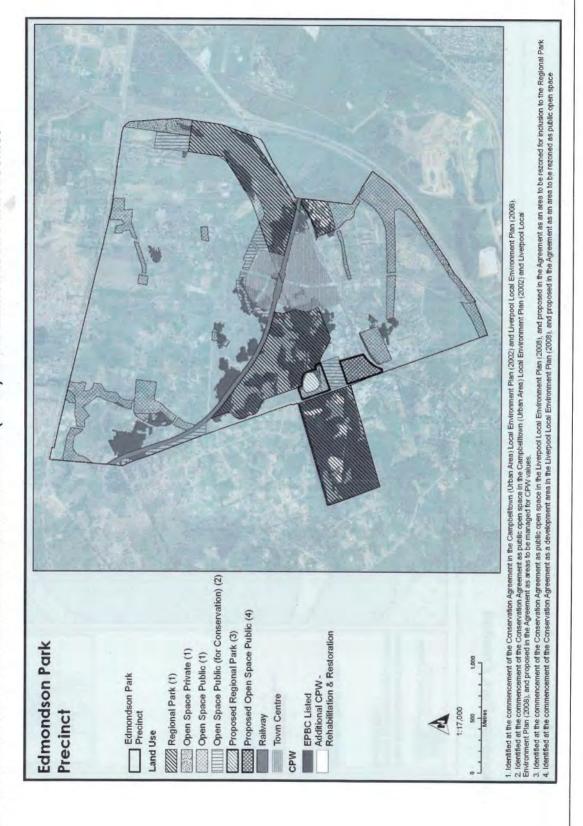
South West Conth Centre fin

Edinorian Pak Preced

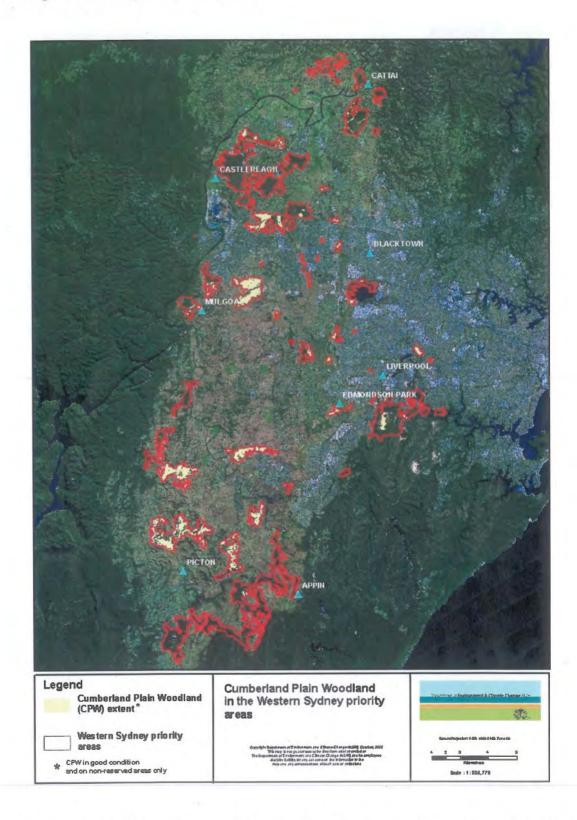
Cadastre

Custate 150409 @ Detrict

Map 3: Land Use and EPBC Cumberland Plain Woodland (CPW) in the Edmondson Park Precinct



Map 4: Priority areas in Western Sydney for the conservation of listed endangered ecological communities



NB: CPW identified in this map represents CPW as listed under the *Threatened Species Conservation Act* 1995 (NSW) and is indicative only for the purposes of this Agreement.

Schedule 3

Class of Actions

The Class of Actions is:

- a) All development or other actions carried out within the Precinct in accordance with the Environmental Planning and Assessment Act 1979 (NSW) (EPA Act) (including projects carried out under Part 3A of the EPA Act and activities carried out under Part 5 of the EPA Act) and any applicable Environmental Planning Instruments made under the EPA Act, including but not limited to State Environmental Planning Policy (Sydney Region Growth Centres) 2006.
- b) Establishment and management of the Regional Park in accordance with the Biodiversity Conservation Plan, including undertaking measures to control African Olive, and rehabilitation and restoration of CPW totalling 9 ha.
- Establishment and management of open space areas in accordance with the Biodiversity Conservation Plan.
- Establishment and management of an offset in accordance with the Biodiversity Conservation Plan.

Schedule 4

Biodiversity Conservation Plan

1. Overview

The Precinct has a total area of 800 ha and is located in the south west of Sydney (see Maps 1-2 in Schedule 2). It will be developed primarily for residential, commercial and associated uses (including infrastructure uses) and will include:

- approximately 7,500 dwellings;
- a new town centre with associated services such as a railway station and transport corridors (rail and road) and community facilities;
- sewer, gas, electricity, water and other infrastructure required for the Precinct and otherwise throughout the Precinct; and
- open space and Regional Park areas.

The Precinct contains a number of biodiversity values protected under both NSW legislation and the EPBC Act. This Biodiversity Conservation Plan outlines the EPBC Act values and describes the management actions to ensure their long term conservation.

2. Biodiversity Values within the Precinct

The matters of national environmental significance protected under the EPBC Act that are present within the Precinct include:

- Cumberland Plain Woodland (CPW), a listed endangered ecological community;
- potential habitat for the Grey-headed Flying-fox (a vulnerable species); and
- potential habitat for the Swift Parrot (an endangered species).

The Precinct also contains approximately 44 ha of Sydney Coastal River-Flat Forest (not listed under the EPBC Act). No other matters of national environmental significance are considered likely to occur within the Precinct.

Cumberland Plain Woodland

The Precinct contains approximately 121 ha of remnant CPW. Map 3 in Schedule 2 shows the distribution of CPW across the Precinct.

Swift Parrot and Grey-headed Flying-fox

The Precinct provides potential habitat for two species listed as threatened under the EPBC Act – the Swift Parrot (endangered) and the Grey-headed Flying-fox (vulnerable). Both of these species use woodland areas for foraging and have the potential to use the Precinct from time to time. There are records of both species occurring within the Precinct on the NSW Wildlife Atlas. These include a single record of Swift Parrot in 2004 and two records of Grey-headed Flying-fox in 1999 and 2007.

3. Biodiversity Management Actions

In order to provide for positive long term conservation outcomes for biodiversity, and particularly for CPW in relation to the Precinct, the State must carry out the following actions:

- establishment and management of a Regional Park including undertaking control measures for existing areas of African Olive;
- · sympathetic management of Public Open Space that contains CPW; and
- an environmental offset outside the Precinct to offset unavoidable impacts.

3.1. Areas set aside for "Regional Park" and associated management prescriptions

A number of areas totalling approximately 150 ha within the Precinct have been proposed as a Regional Park to be managed for conservation by the Department of Environment and Climate Change (DECC). These areas are identified in Map 3 of Schedule 2.

The design of the Regional Park consolidates significant areas of CPW in order to contribute to the regional biodiversity value of the area. The Regional Park includes approximately 79 ha (or approximately 65%) of the CPW within the Precinct, and approximately 31 ha of Sydney Coastal River-Flat Forest (not listed under the EPBC Act).

Some treeless areas within parts of the Regional Park were also identified as suitable for rehabilitation and restoration of CPW totalling 9 ha and are shown on Map 3 of Schedule 2. The criteria for selecting these areas for long term rehabilitation includes:

- · areas that have been identified as not requiring the development of additional infrastructure; and
- discrete treeless areas that are closely surrounded by existing CPW in good condition providing rehabilitation opportunities.

Additional vegetation management for African Olive is to be carried out throughout the Regional Park. This has not been identified on Map 3 of Schedule 2.

Establishment of the Regional Park

The Regional Park has been identified under the Campbelltown (Urban Area) Local Environment Plan (2002) and the Liverpool Local Environment Plan (2008) applicable to land within the Precinct. Gazettal and establishment of the Regional Park will occur subsequent to the finalisation of the sale of Defence Lands and acquisition of the Acquisition Lands by the State, and transfer of the Regional Park land to DECC.

A further area has been identified for reconfiguration of the Regional Park through rezoning of land from Open Space to Regional Park under the *Liverpool City Council Local Environment Plan (2008)* (see Map 3 of Schedule 2). This area (approximately 5.5 ha in size) will enhance biodiversity connectivity in an east west direction across the Park and contains approximately 0.8 ha of existing CPW (see Map 3 of Schedule 2).

Once rezoned, this area will be gazetted and managed by DECC as part of the Regional Park. DECC will undertake various activities to establish the Regional Park in accordance with the Statement of Interim Management Intent.

Conservation Agreement

Management of the Regional Park

The land identified under this Agreement as the Regional Park is to be managed as a Regional Park by DECC under the *National Parks and Wildlife Act 1974* (NPW Act). Under Section 30H(2) of the NPW Act, Regional Parks are managed in accordance with the following principles:

- a) "the provision of opportunities, in an outdoor setting, for recreation and enjoyment in natural or modified landscapes,
- b) the identification, interpretation, management and conservation of the park so as to maintain and enhance significant landscape values,
- c) the conservation of natural and cultural values,
- d) the promotion of public appreciation and understanding of the regional park's natural and cultural values.
- e) provision for sustainable visitor use and enjoyment that is compatible with the conservation of the regional park's natural and cultural values,
- f) provision for the sustainable use (including adaptive reuse) of any buildings or structures or modified natural areas having regard to the conservation of the regional park's natural and cultural values,
- g) provision for the carrying out of development in any part of a special area (within the meaning of the Hunter Water Act 1991) in the regional park that is permitted under section 185A having regard to the conservation of the regional park's natural and cultural values".

Management of the Regional Park will be guided by a Plan of Management (PoM). There is a statutory requirement for the PoM to be publicly exhibited under the NPW Act. In this case the PoM will be informed by two key documents:

- best practice guidelines for managing CPW Recovering bushland on the Cumberland Plain best practice guidelines for the management and restoration of bushland (DEC 2005); and
- a Statement of Interim Management Intent (SIMI) has already been prepared for the Precinct. The SIMI provides a basis to guide the long term management of the Regional Park by DECC to enhance the biodiversity values of the Precinct. It incorporates the following key management principles:
 - enhance connections within the landscape;
 - enhance existing key habitat values including the CPW values of the Park;
 - provide interpretation of the significant components of the site; and
 - manage the natural/urban interface.

African Olive will be managed as part of the overall management of the Park.

Table 1 outlines the actions, responsibilities and timing for State agencies to establish and manage the Regional Park.

Conservation Agreement

Table 1 - Commitments for the Establishment and Management of the Regional Park

	Action	Responsibility	Timing	
1	Transfer of Defence land to the Department of Planning	DoP	Subject to agreement regarding sale of land	
2	Rezoning of additional land to Regional Park	DoP	Within one year of Action 1	
3	Transfer of proposed Regional Park areas to DECC	DoP and DECC	Within one year of Action 1	
4	Gazettal of Regional Park and establishment of necessary infrastructure	DECC	Within one year of Action 3	
5	Preparation of a Plan of Management under the NPW Act	DECC	Within two years of Action 4	
6	Implementation of the Plan of Management with standard review	DECC	Ongoing management and review every five years (commencing from the date of execution of the conservation agreement)	

3.2. Management prescriptions for open space

A network of open space areas is identified under the Campbelltown (Urban Area) Local Environment Plan (2002) and the Liverpool Local Environment Plan (2008) – see Map 3 of Schedule 2. These areas include:

- Public Open Space for Conservation;
- · Other Public Open Space; and
- Private Open Space.

Within a Local Government Area in NSW, land designated as Public Open Space is in the care, control and management of the relevant Council and must be managed in accordance with a plan of management prepared in accordance with the *Local Government Act 1993* (NSW).

Plans of management will be developed by Liverpool and Campbelltown Councils for the public open space areas within the Precinct. These plans will be developed with consideration of the objectives for public open space as outlined in the Local Environment Plans for Liverpool and Campbelltown Councils. For the areas designated as "Public Open Space for Conservation", the plans of management will incorporate measures to retain CPW values through:

- the retention of trees:
- · maintenance of the existing native understorey; and
- locating passive and active facilities cognisant of existing CPW values.

DoP will use its best endeavours to ensure that each Council manages public open space in a way that is sympathetic to the CPW and within the context of the above objectives.

Table 2 outlines the actions, responsibilities and timing for State agencies to ensure the sympathetic management of public open space.

Table 2 - Commitments for the Management of Public Open Space

	Action	Responsibility	Timing
1	Make arrangements with Liverpool and Campbelltown Councils of Biodiversity regarding the Management Actions required under this agreement in respect of land zoned for public and private open space under environmental planning instruments applying to the Precinct	DoP	Within 1 year of the sale of Defence land
2	Preparation of Plans of Management	Liverpool & Campbelltown Councils	Within 2 years of sale of the Defence land
3	Implementation of the Plans of Management	Liverpool and Campbelltown Councils	Ongoing

The areas of Private Open Space within the Precinct will be managed by landholders in accordance with the requirements of the relevant LEP and any relevant development consent.

3.3. Cumberland Plain Woodland offset

Approximately 36 ha of CPW occurs in the development area of the Precinct. These areas cannot be retained within the Regional Park or open space areas due to the impacts such reservation would have on the functioning of the proposed Edmondson Park Town Centre, railway line and train station, and on the overall viability of the Precinct. Consequently, the State will establish and manage 72 ha of CPW in Secure Conservation Areas.

DECC has identified priority areas in Western Sydney for the conservation of CPW and other NSW listed endangered ecological communities (see Map 4 of Schedule 2). Within these areas, there are more than 600 ha of CPW in non-reserve public ownership, and more than 2,000 ha where CPW occurs on private land. Within these lands DECC will protect 72 ha of CPW within Secure Conservation Areas. The offsets will satisfy the following criteria:

- offsets must be direct on-the-ground offsets including acquisition and inclusion of land into the conservation estate and/or permanent covenanting on private land under the biobanking scheme
- the offsets must be high quality Commonwealth listed CPW
- offsets should be located within the same bioregion as Edmondson Park
- · offsets should be clearly identified and mapped and advised to the Commonwealth
- to avoid any perceptions that offsets are being double-counted, offsets cannot include land purchased using Commonwealth funds, or land gifted to NSW for conservation purposes or already counted as an offset towards another project or purpose.

Conservation Agreement

The term 'protect within a Secure Conservation Area' means land reserved under the *National Parks and Wildlife Act 1974* or land subject to a biobanking agreement under the *Threatened Species Conservation Act 1995*. DECC will secure the biobanking agreement by buying (known as 'retiring') CPW credits in accordance with the Threatened Species Conservation Act 1995. Once retired, biobanking credits are not available to offset development elsewhere. Within 60 days of these arrangements being finalised, DECC will provide DEWHA with details of the Secure Conservation Area/s including a map.

Funding for offsets will be provided by the State and will be sourced in part from infrastructure contributions that will be collected as development proceeds in the Growth Centres, and in part from other funding sources as arranged by the State. The funding will contribute to a Conservation Fund, which will be made available to DECC on an annual basis for the above purpose.

Table 3 outlines the actions, responsibilities and timing for State agencies to ensure that the offset strategy is achieved.

Table 3 - Commitments for the Establishment of an Offset Site

Action	Responsibility	Timing
Funds transferred to DECC	DoP	Annually
Reporting on progress to DEWHA	DECC	Annually commencing from 2010-11
Identification, acquisition and securing of lands within priority areas	DECC	The timing of acquisition will be directly related to the loss of vegetation within the Precinct and the collection of development contributions and will occur progressively. Acquisitions to offset vegetation losses in the Precinct will occur within 3 years from the signing of this Agreement. Where funding is not available due to limited development within the Precinct, or if suitable properties are not able to be secured in the timeframe, the State will seek the agreement of DEWHA to vary the timeframe.
Description and map of Secure Conservation Area/s provided to DEWHA	DECC	Within 60 days of establishment of secure arrangement



The Hon Tony Burke MP

Minister for Sustainability, Environment, Water, Population and Communities

B11/1012

The Hon Bradley Hazzard MP Minister for Planning and Infrastructure Parliament House Macquarie Street SYDNEY NSW 2000

The Hon Robyn Parker MP Minister for the Environment Parliament House Macquarie Street SYDNEY NSW 2000

Dear Ministers

Agreement to variation of Edmondson Park Precinct Conservation Agreement (August 2009) made under the *Environment Protection and Biodiversity Conservation Act* 1999 (the EPBC Act)

I refer to the letter of 24 February 2011 from your respective predecessors requesting a variation to the conservation agreement in relation to the development of the Edmondson Park Precinct (the Conservation Agreement). The Conservation Agreement was entered into in August 2009 pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) by the Commonwealth Government and Government of New South Wales as represented by the state ministers with responsibilities related to planning and the environment (the Parties).

Pursuant to section 308 of the EPBC Act and clause 7 of the Conservation Agreement, the Conservation Agreement can be varied by written agreement of the Parties. This letter, once signed by the Parties, will operate as a variation agreement for the purposes of the EPBC Act and will vary the terms of the Conservation Agreement in accordance with the terms of this letter. Any terms not defined herein will have the meaning given to them in the Conservation Agreement or the EPBC Act, as appropriate.

The variations that are the subject of this agreement letter relate to a change in the boundary of the regional park along the eastern boundary of Ingleburn Conservation Area and changes to lands designated as open spaces. The boundary change results in the removal of $1250m^2$ of Cumberland Plain Woodland vegetation from the regional park, and the inclusion in the regional park of $1650m^2$ of Cumberland Plain Woodland vegetation of a higher quality than the area being removed. The boundary change facilitates improved management of the regional park by allowing a road to form its boundary in this location. The changes to public open space do not affect the regional park, Cumberland Plain Woodland or other native vegetation of significance.

The Parties hereby agree as follows:

Firstly, I confirm, as the Minister representing the Commonwealth Government, that I am satisfied that this written agreement to amend the Conservation Agreement satisfies the requirements in sections 305, 306 and 308 of the EPBC Act for the variation of conservation agreements.

Secondly, the Parties agree to the following changes to the Conservation Agreement:

- 1. Replacement of the map at page 13 of the Conservation Agreement titled 'Map 3: Land Use and EPBC Cumberland Plain Woodland in the Edmondson Park Precinct' with the revised map at Annex A of this letter agreement.
- 2. A minor adjustment to the boundary of the regional park as illustrated in the revised Map 3.
- 3. Minor amendments to lands designated as open space as illustrated in the revised Map 3.

The terms of the Conservation Agreement continue in full force and effect, except to the extent they are varied by the terms of this letter agreement. This letter agreement will have effect from the date the Parties have fully executed this agreement.

Please execute three copies of this letter agreement, with a fully executed copy to be delivered to each of the signatories hereto.

Agreed by.	reed by:
------------	----------

The Hon Tony Burke MP, the Minister for Sustainability, Environment, Water, Population and Communities, representing the Commonwealth Government.

Date: / / 7 /2011

Agreed by:

The Hon Bradley Hazzard MP, the Minister for Planning and Infrastructure, representing the Government of New South Wales.

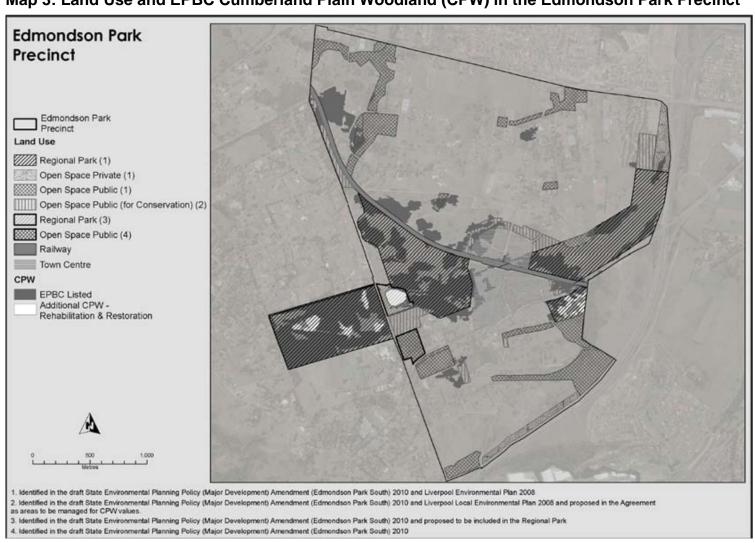
Date: 2 2 AUG 2011

Agreed by:

The Hon Robyn Parker MP, the Minister for the Environment, representing the Government of New South Wales.

Date: 7 / 9 /2011

Map 3: Land Use and EPBC Cumberland Plain Woodland (CPW) in the Edmondson Park Precinct



Mr Robert Black
Executive Director
NSW Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Mr Black

Variation of Edmondson Park Precinct Conservation Agreement (August 2009) made under the *Environment Protection and Biodiversity Conservation Act 1999*

I refer to your letter, received 10 August 2012 (your reference 09/00781) seeking a variation to the above Conservation Agreement. The Conservation Agreement was entered into in August 2009 pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) by the Commonwealth Government and Government of New South Wales.

Pursuant to section 308 of the EPBC Act and clause 7 of the Conservation Agreement, the Conservation Agreement can be varied by written agreement of the Parties. I note that NSW has agreed in writing to the variations that are the subject of this letter (your letter referenced above). I am a delegate of the Minister for Sustainability, Environment, Water, Population and Communities, the Hon Tony Burke MP, authorised to make decisions under the EPBC Act.

I advise that this letter will operate as a variation agreement for the purposes of the EPBC Act and will vary the terms of the Conservation Agreement as agreed between the Parties. Any terms not defined herein will have the meaning given to them in the Conservation Agreement or the EPBC Act, as appropriate.

The variations that are the subject of this letter are for extensions in time for commitments in the Conservation Agreement in regard to the transfer of land to the Office of Environment and Heritage, preparation of a Plan of Management for Open Space by relevant Councils, and the protection of 72 hectares of Cumberland Plain Woodland.

The transfer of land was intended to be completed within one year of the sale of the Defence land (31 August 2012), but has been delayed due to factors beyond the control of the Parties. This includes delays in the required remediation works that must be completed prior to transfer of the land. The requirement for relevant Councils to prepare a Plan of Management within two years of the sale of the Defence land has also been delayed and can only be undertaken once the land is transferred to Council ownership. While the requirement to secure 72 hectares of Cumberland Plain Woodland within three years from the signing of the Conservation Agreement (20 August 2012) is progressing (with 62.9 hectares secured as of the date of this letter) the timing for completion is dependent on landowners and other factors.

The extensions in time do not affect the intent of the Conservation Agreement, including establishment of the required regional park and protection of Cumberland Plain Woodland and other native vegetation of significance.

I confirm, as delegate for the Minister, that I am satisfied that this written agreement to amend the Conservation Agreement satisfies the requirements of sections 305, 306 and 308 of the EPBC Act as relevant.

I confirm that the Parties have agreed to the following changes to the Conservation Agreement:

- 1. The timing for Item 3 of Table 1 at Schedule 4 (Transfer of proposed Regional Park areas to DECC [Office of the Environment and Heritage]) is now within two years of Action 1 or 31 August 2013.
- 2. The timing for Item 2 of Table 2 at Schedule 4 (Preparation of Plans of Management) is now one year from when the Open Space has been transferred to relevant Councils.
- 3. The timing for the third item of Table 3 at Schedule 4 (Identification, acquisition and securing of lands within priority areas) is now within 4 years from the signing of the Conservation Agreement.

The terms of the Conservation Agreement continue in full force and effect, except to the extent they are varied by the terms of this letter agreement. The variations have effect from the date of signature of this letter.

Yours sincerely

Caroly W Consion

Carolyn Cameron Assistant Secretary Strategic Approaches Branch

/ August 2012

Mr Tom Grosskopf Director Metropolitan Regional Operations Office of Environment & Heritage NSW Department of Premier and Cabinet PO Box A290 SYDNEY SOUTH NSW 1232

Dear Mr Grosskopf

Variation of Edmondson Park Precinct Conservation Agreement (August 2009) made under the Environment Protection and Biodiversity Conservation Act 1999

I refer to your letter dated 29 August 2013 (your reference 13/44257) seeking a variation to the Conservation Agreement in relation to the development of the Edmondson Park Precinct (the Conservation Agreement). The Conservation Agreement was entered into in August 2009 pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) by the Commonwealth Government and Government of New South Wales.

Pursuant to section 308 of the EPBC Act and clause 7 of the Conservation Agreement, the Conservation Agreement can be varied by written agreement of the Parties. I note that NSW has agreed in writing to the variation that is the subject of this letter (your letter referenced above). I am a delegate of the Minister for the Environment, the Hon Greg Hunt MP, authorised to make decisions under the EPBC Act.

I advise that this letter will operate as a variation agreement for the purposes of the EPBC Act and will vary the terms of the Conservation Agreement as agreed between the Parties. Any terms not defined herein will have the meaning given to them in the Conservation Agreement or the EPBC Act, as appropriate.

The variation that is the subject of this letter is for an extension in time for commitments in the Conservation Agreement in regard to the transfer of land for the proposed Regional Park to the NSW Office of Environment and Heritage (OEH). A previous variation on 17 August 2012 extended the date for the transfer of the proposed Regional Park areas to OEH from 31 August 2012 to 31 August 2013. This current variation extends the date for transfer of the proposed Regional Park areas to OEH from 31 August 2013 to 31 December 2015. The Conservation Agreement will be amended to extend the timing for Action 3, Table 1 of Schedule 4 to 31 December 2015.

This extension is required to enable sufficient time to resolve infrastructure issues and finalise remediation works by the current owners, UrbanGrowth NSW, on the land identified in the Conservation Agreement for inclusion in the proposed Regional Park. This includes delays in the required remediation works that must be completed prior to transfer of the land. The delay is due to factors beyond the control of the Parties, including unavoidable circumstances such as weather, technical complexities and other unexpected events.

The extension in time does not affect the intent of the Conservation Agreement, including establishment of the required Regional Park and protection of Cumberland Plain Woodland

and other native vegetation of significance. The NSW government will provide updates as part of its annual reporting requirements under clause 8 of the Conservation Agreement on the work undertaken by UrbanGrowth NSW to progress the transfer of land for inclusion in the Regional Park by 31 December 2015.

I confirm, as delegate for the Minister, that I am satisfied that this written agreement to amend the Conservation Agreement satisfies the requirements of sections 305, 306 and 308 of the EPBC Act as relevant.

I confirm that the Parties have agreed to the following change to the Conservation Agreement:

1. The timing for Item 3 of Table 1 at Schedule 4 (Transfer of proposed Regional Park areas to DECC [Office of the Environment and Heritage]) is now 31 December 2015.

The terms of the Conservation Agreement continue in full force and effect, except to the extent they are varied by the terms of this letter agreement. The variations have effect from the date of signature of this letter.

Please do not hesitate to contact the undersigned on (02) 6274 1861 if you require further information.

Yours sincerely

Steve Mercer

A/g Assistant Secretary

Strategic Approaches Branch

November 2013



Hon. Brad Hazzard MP Minister for Planning and Infrastructure Minister Assisting Premier on Infrastructure NSW

Governor Macquarie Tower 1 Farrer Place, Sydney NSW 2000

Orginal Signatures

With Compliments



Min No: 1004-005591	292
Division: EACO Link: MS 13-000	,
DLO: 117 Date: 18/2/10	
RECEIVED 18 FEB 2014 Environment Minister	
☐ Covering Brief ☐ Departmental Reply☐ VIP Reply ☐ Appropriate Action☐ Minister Reply☐ For Information (NFA)☐ CoS/Adviser Reply☐ Campaign ☐ Advice/Min☐ Refer to:	



The Hon Greg Hunt MP

Minister for the Environment

MS13-000792

- The Hon Bradley Hazzard MP
 Minister for Planning and Infrastructure
 Parliament House
 Macquarie Street
 SYDNEY NSW 2000
- The Hon Robyn Parker MP
 Minister for the Environment
 Parliament House
 Macquarie Street
 SYDNEY NSW 2000

Dear Ministers

Variation agreement to the Edmondson Park Precinct Conservation Agreement made under the Environment Protection and Biodiversity Conservation Act 1999

I refer to your letter of 28 August 2013 requesting a variation to the Conservation Agreement in relation to the development of the Edmondson Park Precinct (the Conservation Agreement). The Conservation Agreement was entered into in August 2009 pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) by the Commonwealth Government and Government of New South Wales as represented by the state ministers with responsibilities related to planning and the environment (the Parties). It has previously been varied by agreement in September 2011 and August 2012.

Pursuant to section 308 of the EPBC Act, and clause 7 of the Conservation Agreement, the Conservation Agreement can be varied by written agreement of the Parties. This letter, once signed by the Parties, will operate as a variation agreement for the purposes of the EPBC Act and will vary the terms of the Conservation Agreement in accordance with the terms of this letter. Any terms not defined herein will have the meaning given to them in the Conservation Agreement or the EPBC Act, as appropriate.

The variations that are the subject of this letter agreement relate to:

- Two changes in the boundary of the proposed regional park, one along Campbelltown Road and the other on the north east corner of the proposed regional park;
- Minor additional impacts on biodiversity along the Campbelltown Road boundary to the regional park; and
- The incorporation of a new area of land into the proposed regional park, hereafter referred to as the 'new area'.

The boundary change along Campbelltown Road, as a result of the widening of the road, will result in the removal of 1.14 ha from the proposed regional park, including 0.40 ha of *Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest* (Cumberland Plain Woodland) listed as critically endangered under the EPBC Act. The boundary change along the north-east corner of the proposed regional park results in the inclusion of a new area of 1.14 ha currently zoned private recreation into the regional park, including 0.51 ha of Cumberland Plain Woodland.

The Parties hereby agree as follows:

Firstly, I confirm, as the Minister representing the Commonwealth Government, that I am satisfied that this written agreement to amend the Conservation Agreement satisfies the requirements in sections 305, 306 and 308 of the EPBC Act for the variation of conservation agreements.

Secondly, the Parties agree to the following changes to the Conservation Agreement:

Replacement of the map at page 13 of the Conservation Agreement titled 'Map 3: Land Use and EPBC Cumberland Plain Woodland in the Edmondson Park Precinct' with the revised map at Annex A of this letter agreement.

A minor adjustment to the boundary of the regional park as illustrated in the revised Map 3.

Minor amendments to lands designated as 'open space private' as illustrated in the revised Map 3.

With regard to Action 3, Table 1 of Schedule 4 to the Conservation Agreement, the new area to be incorporated into the regional park must be transferred to the NSW Department of Planning and Infrastructure or the NSW Office of Environment and Heritage before any clearing of vegetation resulting from the Campbelltown Road development begins within the previous proposed regional park boundary. Otherwise, for the new area, Action 1, Action 2 and Action 3 do not apply, while Action 4, Action 5 and Action 6 will be undertaken as required for the remainder of the proposed regional park. The new area will be managed under the same Plan of Management as the proposed regional park.

The other terms of the Conservation Agreement continue in full force and effect, except to the extent they are varied by the terms of this letter agreement. This letter agreement will have effect from the date the Parties have fully executed this agreement.

Please execute three copies of this letter agreement, with a fully executed copy to be delivered to each of the signatories hereto.

Agreed by:

The Hon Greg Hunt MP, the Minister for the Environment.

Date: 26 / 11 /2013

Agreed by:

The Hon Bradley Hazzard MP, the Minister for Planning and Infrastructure, representing the Government of New South Wales.

Date: 6 / 1 1/2013

Agreed by:

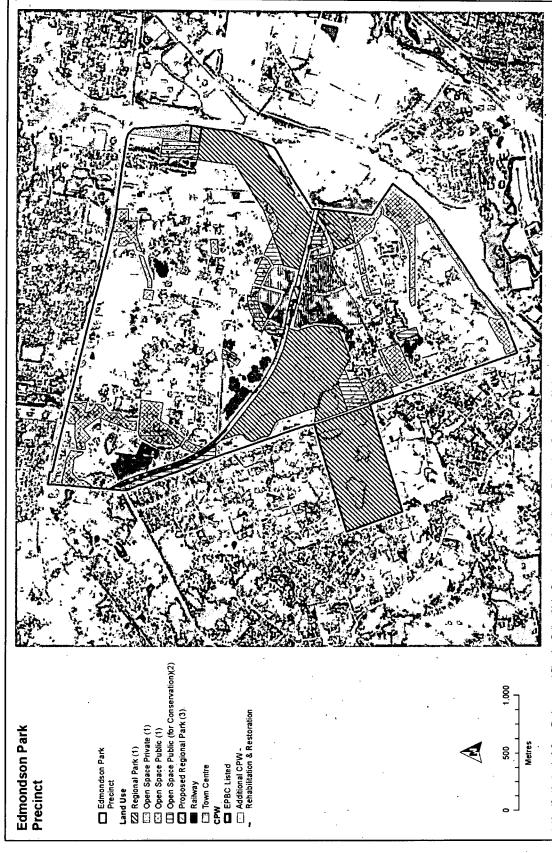
Hayn Peker

The Hon Robyn Parker MP, the Minister for the Environment, representing the Government of New South Wales.

Date: /0 / /2 /2013

Sonservation Agreement

Map 3: Land Use and EPBC Cumberland Plain Woodland (CPW) in the Edmondson Park Precinct



1. Identified in the draft State Environmental Planning Policy (Major Development) Amendment (Edmondson Park South) 2010 and Liverpool Local Environmental Plan 2008 and in the Agreement 2. Identified in the draft State Environmental Planning Policy (Major Development) Amendment (Edmondson Park South) 2010 and Liverpool Local Environmental Planning Policy (Major Development) Amendment (Edmondson Park South) 2010 and proposed to be included in Edmondson Regional Park

Map 3: Land Use and EPBC Cumberland Plain Woodland (CPW) in the Edmondson Park Precinct

