

5. Commitments for matters of national environmental significance

The Program includes a range of commitments for matters of national environmental significance protected under the EPBC Act. This section describes those commitments and the activities to achieve them for each of the key matters.

The commitments are drawn from the detailed analysis in the Draft Strategic Assessment Report (Part B) and build upon the Relevant Biodiversity Measures for the Growth Centres Biodiversity Certification. Reference should be made to the Draft Strategic Assessment Report for detail about each matter, which includes:

- the values of the matter in relation to the Growth Centres (e.g. distribution, presence, important areas etc);
- potential impacts to the matter;
- proposed measures to mitigate and manage potential impacts;
- proposed offset measures; and
- the conservation outcome for the matter.

The matters of national environmental significance discussed below are focused on those matters for which conservation activities are considered necessary and/or for which the Program will provide a benefit. These are:

- Threatened ecological communities: Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest, and Shale Sandstone Transition Forest.
- Threatened flora: Downy Wattle (*Acacia pubescens*), *Darwinia biflora*, *Dillwynia tenuifolia*, Small-flowered Grevillea (*Grevillea parviflora* subsp. *Parviflora*), *Micromyrtus minutiflora*, *Persoonia hirsuta*, *Persoonia nutans*, *Pimelea spicata*, and *Pultenaea parviflora*.
- Threatened fauna: Swift Parrot (*Lathamus discolor*), Green and Golden Bell Frog (*Litoria aurea*), Large-eared Pied bat (*Chalinolobus dwyeri*), and Grey-headed Flying Fox (*Pteropus poliocephalus*).

5.1 THREATENED ECOLOGICAL COMMUNITIES

Cumberland Plain Shale Woodlands and Shale Gravel Transition Forest (CPW)

Commitments	Activities	Mechanism	Responsibility	Timing
1. Retention and protection of up to 998 ha of CPW within the Growth Centres. This includes: - o Protection of up to 60% of the High and Moderate Management Viability CPW that exists across the Growth Centres. - o Protection and management in perpetuity of almost 93% of all High Management Viability CPW.	Protection of at least 1,000 ha of land zoned and set aside for environmental conservation under the Growth Centres SEPP which includes land with approximately 423 ha of CPW. (Refer to Figure 20 and Figure 21).	Growth Centres Conservation Fund and other Government Revenue	NSW Government Relevant local Council	Current and ongoing as land becomes available
	Ongoing management of the environmental conservation areas.	Development controls under the Growth Centres SEPP and NSW TSC Act	NSW Government Relevant local Council	Ongoing
	Protection and management of CPW in other protected areas totalling up to approximately 280 ha of CPW, including: - o Flood prone and major creeks land. - o The Regional Park within the Edmondson Park Precinct. - o Additional areas zoned through detailed precinct planning. Continued protection of pre-existing conservation areas supporting approximately 280 ha of CPW (M7 offset area, Western Sydney Parklands, Kemps Creek Nature Reserve).	Various including development controls under the Growth Centres SEPP and existing conservation arrangements	Various including: - o Local councils for implementation of development controls under the Growth Centres SEPP; and - o DECCW for management of Regional Park within Edmondson Park	Ongoing

	Protection of a total of 2,000 ha of existing native vegetation across the Growth Centres, which includes up to 998 ha of CPW and other existing native vegetation.	Various including development controls and zoning provisions under the Growth Centres SEPP	NSW Government Relevant local Councils	Ongoing
	Assessment of 14 ha HNV CPW within Marsden Park & Marsden Park Industrial Precincts to confirm its presence. Based on the outcomes of the assessment, DECCW will advise the NSW Minister for the Environment whether the area should be protected.	RBM 14-16	DoP and DECCW	During the precinct planning process
2. Contribution towards the long term sustainability and persistence of CPW and other grassy woodlands. The NSW Government will make every effort to ensure the protection of at least 2,400 ha of either CPW, SGTF or other "grassy woodland" communities outside the Growth Centres within the combined area of the Sydney Basin Bioregion (IBRA v6.1) and the Hawkesbury Nepean Catchment Management Authority area. Preference to be given to CPW followed by White Box, Yellow Box, Blakely's Red Gum Grassy Woodland and Derived Native Grassland.	Prioritisation of 70% of the \$397.5 million (in 2005/06 dollars) Conservation Fund, for offsets outside the Growth Centres, to secure suitable areas of woodland and other matters listed under the EPBC Act that are identified in these commitments as requiring offsets outside the Growth Centres.	Growth Centres Conservation Fund and Growth Centres Offset Program	NSW Government with administration of the Offset Program being the responsibility of DECCW (and guided by the Advisory Group) in accordance with the Growth Centres Biodiversity Certification.	Over the life of the Program
	Allocation of the funding in accordance with the preferences indicated in RBM 32 of the Growth Centres Biodiversity Certification (Refer to Appendix B).			
	Targeting of lands for protection to be guided by the criteria identified in RBM 33 of the Growth Centres Certification (Refer to Appendix B).			

Shale Sandstone Transition Forest (SSTF)

Commitments	Activities	Mechanism	Responsibility	Timing
3. Retention and protection of approximately 59 ha of SSTF within the Growth Centres	Protection and management of SSTF in other protected areas, including:			
	o Flood Prone Land	Development controls under the Growth Centres SEPP	NSW Government Relevant local Councils	Ongoing
	o Public Recreation – Regional	Growth Centres Conservation Fund and development controls under the Growth Centres SEPP	DoP	Ongoing
	o Westlink M7 Motorway Offsets	Maintenance of the existing conservation area (purchased by the RTA for transfer to DECCW as part of the Westlink M7 Motorway offsets)	DECCW	Ongoing
	o Detailed Zonings - North Kellyville	Development controls under the North Kellyville Precinct Plan relating to E3 and E4 zones	Relevant local Council	Ongoing
4. Contribution towards the long term sustainability and persistence of SSTF. The NSW Government will make every effort to ensure the	Allocation of part of the 70% of the \$397.5 million (in 2005/06 dollars) referred to in Commitment 2 to secure suitable areas of SSTF.	Growth Centres Conservation Fund and Growth Centres Offset	NSW Government with administration of the Offset Program being the	Over the life of the Program

protection of at least 132 ha of SSTF outside of the Growth Centres within the combined area of the Sydney Basin Bioregion (IBRA v6.1) and the Hawkesbury Nepean Catchment Management Authority area.	Allocation of the funding in accordance with the preferences indicated in Relevant Biodiversity Measure 32 of the Growth Centres Biodiversity Certification (Refer to Appendix B).	Program	responsibility of DECCW (and guided by the Advisory Group) in accordance with the Growth Centres Biodiversity Certification	
	Targeting of lands for protection to be guided by the criteria identified in Relevant Biodiversity Measure 33 of the Growth Centres Biodiversity Certification (Refer to Appendix B).			

5.2 THREATENED FLORA

Downy Wattle (*Acacia pubescens*)

Commitments	Activities	Mechanism	Responsibility	Timing
5. Survey to confirm the presence of <i>Acacia pubescens</i> in the area of the two known records within the Growth Centres in Kemps Creek and Austral. (Refer to Figure 21).	Survey to confirm location and significance of population at Kemps Creek and Austral.	RBM 17	DoP and DECCW	During the precinct planning process
6. Protect if presence of <i>Acacia pubescens</i> is confirmed and population is identified as significant relative to the adjacent property by DECCW.	Protection of an area of suitable habitat for the species will be provided to the satisfaction of DECCW.	Various including RBM 6 which requires a minimum of 2,000 ha of existing native vegetation to be retained Relevant development controls and zoning to be included in the Growth Centres SEPP	DoP and DECCW	During the precinct planning process

7. Provision of offsets focussed on protecting potential habitat for <i>Acacia pubescens</i> that occur outside the Growth Centres.	Allocation of part of the 70% of the \$397.5 million (in 2005/06 dollars) referred to in Commitment 2 to secure suitable areas of potential habitat for <i>Acacia pubescens</i> .	Growth Centres Conservation Fund and Growth Centres Offset Program	NSW Government with administration of the Offset Program being the responsibility of DECCW (and guided by the Advisory Group) in accordance with the Growth Centres Biodiversity Certification	Over the life of the Program
	Allocation of the funding in accordance with the preferences indicated in Relevant Biodiversity Measure 32 of the Growth Centres Biodiversity Certification.			
	Targeting of lands for protection to be guided by the criteria identified in Relevant Biodiversity Measure 33 of the Growth Centres Biodiversity Certification.			

Darwinia biflora

Commitments	Activities	Mechanism	Responsibility	Timing
8. Protection of four known populations of <i>Darwinia biflora</i> within the Growth Centres. (Refer to Figure 20).	Protection and ongoing management of key populations within the North Kellyville Precinct.	Implementation of RBM 17 which led to zoning as E3 Environmental Management and related development controls	Relevant local Council	Zoning Completed Management – ongoing

Dillwynia tenuifolia

Commitments	Activities	Mechanism	Responsibility	Timing
9. Retention and protection of habitat supporting the four important populations of <i>Dillwynia tenuifolia</i> known to occur within the Growth Centres through acquisition of land for environmental conservation. (Refer to Figure 20 and Figure 21).	Protection of the Marsden Park North population.	Growth Centres SEPP conservation zoning, development controls and purchase	DoP	Zoning completed Management - ongoing
	Protection of the population within the Air Services Australia site at Shanes Park.	Growth Centres SEPP conservation zoning and development controls	DoP and DECCW	Zoning completed Management - ongoing
	Protection of the majority of the large population within Kemps Creek.	Growth Centres SEPP conservation zoning and development controls	DoP	Zoning completed Management - ongoing
	Protection of the large population that occurs within the Westlink M7 Motorway offset adjacent to the Colebee Precinct.	Maintenance of the existing conservation area (purchased by the RTA for transfer to DECCW as part of the Westlink M7 Motorway offsets)	DECCW	Ongoing
10. Increase in the number of known sites for the species under conservation and management outside of the Growth Centres.	The acquisition of the Cranebrook site which supports a very large and significant population of <i>Dillwynia tenuifolia</i> (estimated that the population consists of 125,000 to 222,000 plants).	Contribution From the Conservation Fund towards the purchase and initial reserve establishment costs	DECCW	Completed 2008-09

Small-flowered Grevillea (*Grevillea parviflora* subsp. *Parviflora*)

Commitments	Activities	Mechanism	Responsibility	Timing
11. Retention and protection of habitat supporting the population known to occur within the Growth Centres through acquisition of land in Kemps Creek. (Refer to Figure 21).	Protection of the majority of the large population within Kemps Creek	Growth Centres SEPP conservation zoning, development controls and acquisition through the Growth Centres Conservation Fund	DoP and DECCW	During precinct planning
12. Survey to confirm the presence of <i>Grevillea parviflora</i> subsp. <i>parviflora</i> in the Kemps Creek area subject to RBM 17. (Refer to Figure 21).	Survey to confirm location and significance of population	Methodology consistent with RBM 17 as it applies to <i>Acacia pubescens</i> in the Kemps Creek area (Refer to Appendix B)	DoP and DECCW	During precinct planning
13. Protect if presence of <i>Grevillea parviflora</i> subsp. <i>parviflora</i> is confirmed and population is identified as significant relative to the adjacent property by DECCW.	Protection of an area of suitable habitat for the species will be provided to the satisfaction of DECCW	Various including RBM 6 which requires a minimum of 2,000 ha of existing native vegetation to be retained. Relevant development controls and zoning to be included in the Growth Centres SEPP	DoP and DECCW	During the precinct planning process

Micromyrtus minutiflora

Commitments	Activities	Mechanism	Responsibility	Timing
14. Retention and protection of habitat supporting the two important populations known to occur within the Growth Centres. (Refer to Figure 20).	Purchase and protection of the Marsden Park North population.	Growth Centres SEPP conservation zoning, development controls and purchase	DoP	Ongoing
	Protection of the population within the Air Services Australia site at Shanes Park.			
15. Increase in the number of known sites for the species under conservation and management outside of the Growth Centres.	Acquisition of the Cranebrook site which supports a very large and significant population of <i>Micromyrtus minutiflora</i> (estimated that the population consists of 366,000 to 522,000 plants).	Contribution from the Conservation Fund towards the purchase and initial reserve establishment costs	DECCW	Completed 2008-09

Persoonia hirsuta

Commitments	Activities	Mechanism	Responsibility	Timing
16. Protection of potential habitat for <i>Persoonia hirsuta</i> within North Kellyville.	Protection and ongoing management of potential habitat within the North Kellyville Precinct.	Zoning as E3 Environmental Management or E4 Environmental Living and related development controls	Relevant local Council	Zoning Completed Management – ongoing

Persoonia nutans

Commitments	Activities	Mechanism	Responsibility	Timing
17. Retention and protection of habitat supporting the important populations of <i>Persoonia nutans</i> known to occur within the Growth Centres. (Refer to Figure 21).	Protection of one of the known populations within the Public Recreation – Regional land at Kemps Creek.	Growth Centres SEPP conservation zoning, development controls and acquisition through the Growth Centres Conservation Fund	DoP and DECCW	Ongoing
18. Survey to confirm the presence of <i>Persoonia nutans</i> in the Kemps Creek area subject to RBM 17. (Refer to Figure 21).	Survey to confirm location and significance of population.	Methodology consistent with RBM 17 as it applies to <i>Acacia pubescens</i> in the Kemps Creek area (Refer to Appendix B)	DoP and DECCW	During precinct planning
19. Protect if presence of <i>Persoonia nutans</i> is confirmed and population is identified as significant relative to the adjacent property by DECCW.	Protection of an area of suitable habitat for the species will be provided to the satisfaction of DECCW.	Various including RBM 6 which requires a minimum of 2,000 ha of existing native vegetation to be retained	DoP and DECCW	During the precinct planning process
20. Increase in the number of known sites for the species under conservation and management outside of the Growth Centres.	Acquisition of the Cranebrook site which supports a population of <i>Persoonia nutans</i> .	Contribution from the Conservation Fund towards the purchase and initial reserve establishment costs	DECCW	Completed 2008-09

Pimelea spicata

Commitments	Activities	Mechanism	Responsibility	Timing
21. Survey to confirm presence of <i>Pimelea spicata</i> at Denham Court Road within the South West Growth Centre. (Refer to Figure 21).	Survey to confirm location and significance of population.	RBM 17 (Refer to Appendix B)	DoP and DECCW	During the precinct planning process
22. Protect if presence of <i>Pimelea spicata</i> is confirmed and population is identified as significant relative to the adjacent property by DECCW.	Protection of an area of suitable habitat for the species will be provided to the satisfaction of DECCW.	Various including RBM 6 which requires a minimum of 2,000 ha of existing native vegetation to be retained. Relevant Growth Centres SEPP development controls	DoP and DECCW	During the precinct planning process
23. Provision of offsets focussed on protecting habitat for <i>Pimelea spicata</i> that occur outside the Growth Centres.	Allocation of part of the 70% of the \$397.5 million (in 2005/06 dollars) referred to in Commitment 2 to secure suitable areas of potential habitat of <i>Pimelea spicata</i> .	Growth Centres Conservation Fund and Growth Centres Offset Program	NSW Government with administration of the Offset Program being the responsibility of DECCW (and guided by the Advisory Group) in accordance with the Growth Centres Biodiversity Certification	Over the life of the Program
	Allocation of the funding in accordance with the preferences indicated in Relevant Biodiversity Measure 32 of the Growth Centres Biodiversity Certification.			
	Targeting of lands for protection to be guided by the criteria identified in Relevant Biodiversity Measure 33 of the Growth Centres Biodiversity Certification.			

Pultenaea parviflora

Commitments	Activities	Mechanism	Responsibility	Timing
24. Retention and protection of habitat supporting the four populations of <i>Pultenaea parviflora</i> known to occur within the Growth Centres. (Refer to Figure 20 and Figure 21).	Protection of the Marsden Park North population.	Growth Centres SEPP conservation zoning, development controls and acquisition through the Conservation Fund	DoP	Ongoing
	Protection of the population within the Air Services Australia site at Shanes Park.			
	Protection of the population within Kemps Creek.			
	Protection of the large population that occurs on land adjacent to the Colebee Precinct.	Maintenance of the existing conservation area (purchased by the RTA for transfer to DECCW as part of the Westlink M7/ Motorway offsets)	DECCW	Ongoing
25. Increase in the number of known sites for the species under conservation and management outside of the Growth Centres.	Acquisition of Cranebrook which supports a very large and significant population of <i>Pultenaea parviflora</i> (estimated that the population consists of 86,000 and 127,000 plants).	Contribution From The Conservation Fund towards the purchase and initial reserve establishment costs	DECCW	Purchased in 2008-09

5.3 THREATENED FAUNA

Swift Parrot (*Lathamus discolor*)

Commitments	Activities	Mechanism	Responsibility	Timing
26. Protection of potential habitat for the Swift Parrot within the Growth Centres.	Protection of 2,000ha native vegetation within the Growth Centres.	Various including RBM 6 which requires a minimum of 2,000 ha of existing native vegetation to be retained Relevant Growth Centres SEPP development controls	DoP, DECCW and local Councils	Ongoing
27. Provision of offsets outside of the Growth Centres which will also contain potential foraging habitat for the Swift Parrot, and which will contribute further towards the conservation of habitat within the combined area of the Sydney Basin Bioregion (IBRA v6.1) and the Hawkesbury Nepean Catchment Management Authority area.	Allocation of part of the 70% of the \$397.5 million (in 2005/06 dollars) referred to in Commitment 2 to secure suitable areas of potential habitat for the Swift Parrot.	Growth Centres Conservation Fund and Growth Centres Offset Program	Administration of the Conservation Fund is the responsibility of DECCW (and guided by the Advisory Group)	Over the life of the Program
	Allocation of the funding in accordance with the preferences indicated in Relevant Biodiversity Measure 32 of the Growth Centres Biodiversity Certification.			
	Targeting of lands for protection to be guided by the criteria identified in Relevant Biodiversity Measure 33 of the Growth Centres Biodiversity Certification.			

Green and Golden Bell Frog (*Litoria aurea*)

Commitments	Activities	Mechanism	Responsibility	Timing
28. Protection and enhancement of potential and known habitat for the Riverstone element of the Western Sydney key population of the Green and Golden Bell Frog. (Refer to Figure 20).	Concept design for trunk drainage land to incorporate habitat protection and enhancement features.	RBM 18	DoP & DECCW	Expected completion in 2010
	Inclusion of provisions in the Riverstone Precinct Plan and/or Development Control Plan to require the design and assessment of development on subject lands to be consistent with any recovery plan for the species and the Best Practice Guidelines for Green and Golden Bell Frog Habitat (DECC 2008b).	Precinct Planning	DoP Relevant local Council	Expected completion in 2010
29. Protection of potential habitat for the species throughout the North West Growth Centre.	Retention of major drainage lines and associated vegetation throughout the Growth Centres through development controls for major creeks and flood prone areas.	Growth Centres SEPP development controls	DoP	Ongoing

Large-eared Pied Bat (*Chalinolobus dwyeri*)

Commitments	Activities	Mechanism	Responsibility	Timing
30. Protection of potential habitat for the Large-eared Pied Bat within the Growth Centres.	Retention of potential roosting habitat and immediately adjacent potential foraging habitat along Cattai Creek in North Kellyville through development controls associated with the Environmental Management and Environmental Living zones.	Zoning as E3 Environmental Management or E4 Environmental Living and related development controls	Relevant local Council	Zoning – completed Management - ongoing
	Protection of native vegetation within the Growth Centres.	Various including RBM 6 which requires a minimum of 2,000 ha of existing native vegetation to be retained Relevant Growth Centres SEPP development controls	DoP, DECCW and local Councils	Ongoing
31. Provision of offsets outside of the Growth Centres which will also contain potential roosting or foraging habitat for the Large-eared Pied Bat, and which will contribute further towards the conservation of habitat within the combined area of the Sydney Basin Bioregion (IBRA v6.1) and the Hawkesbury Nepean Catchment Management Authority area.	Allocation of part of the 70% of the \$397.5 million (in 2005/06 dollars) referred to in Commitment 2 to secure suitable areas of potential habitat for the Large-eared Pied Bat.	Growth Centres Conservation Fund and Growth Centres Offset Program	Administration of the Conservation Fund is the responsibility of DECCW (and guided by the Advisory Group)	Over the life of the Program
	Allocation of the funding in accordance with the preferences indicated in Relevant Biodiversity Measure 32 of the Growth Centres Biodiversity Certification.			
	Targeting of lands for protection to be guided by the criteria identified in Relevant Biodiversity Measure 33 of the Growth Centres Biodiversity Certification.			

Grey-headed Flying Fox (*Pteropus poliocephalus*)

Commitments	Activities	Mechanism	Responsibility	Timing
32. Protection of potential habitat for the Grey-headed Flying Fox within the Growth Centres.	Protection of native vegetation within the Growth Centres.	Various including RBM 6 which requires a minimum of 2,000 ha of existing native vegetation to be retained and relevant Growth Centres SEPP development controls	DoP, DECCW and local Councils	Ongoing
33. Provision of offsets outside of the Growth Centres which will also contain potential roosting and foraging habitat for the Grey-headed Flying Fox, and which will contribute further towards the conservation of habitat within the combined area of the Sydney Basin Bioregion (IBRA v6.1) and the Hawkesbury Nepean Catchment Management Authority area.	Allocation of part of the 70% of the \$397.5 million (in 2005/06 dollars) referred to in Commitment 2 to secure suitable areas of potential habitat for the Grey-headed Flying Fox.	Growth Centres Conservation Fund	Administration of the Conservation Fund is the responsibility of DECCW	Over the life of the Program
	Allocation of the funding in accordance with the preferences indicated in Relevant Biodiversity Measure 32 of the Growth Centres Biodiversity Certification.			
	Targeting of lands for protection to be guided by the criteria identified in Relevant Biodiversity Measure 33 of the Growth Centres Biodiversity Certification.			

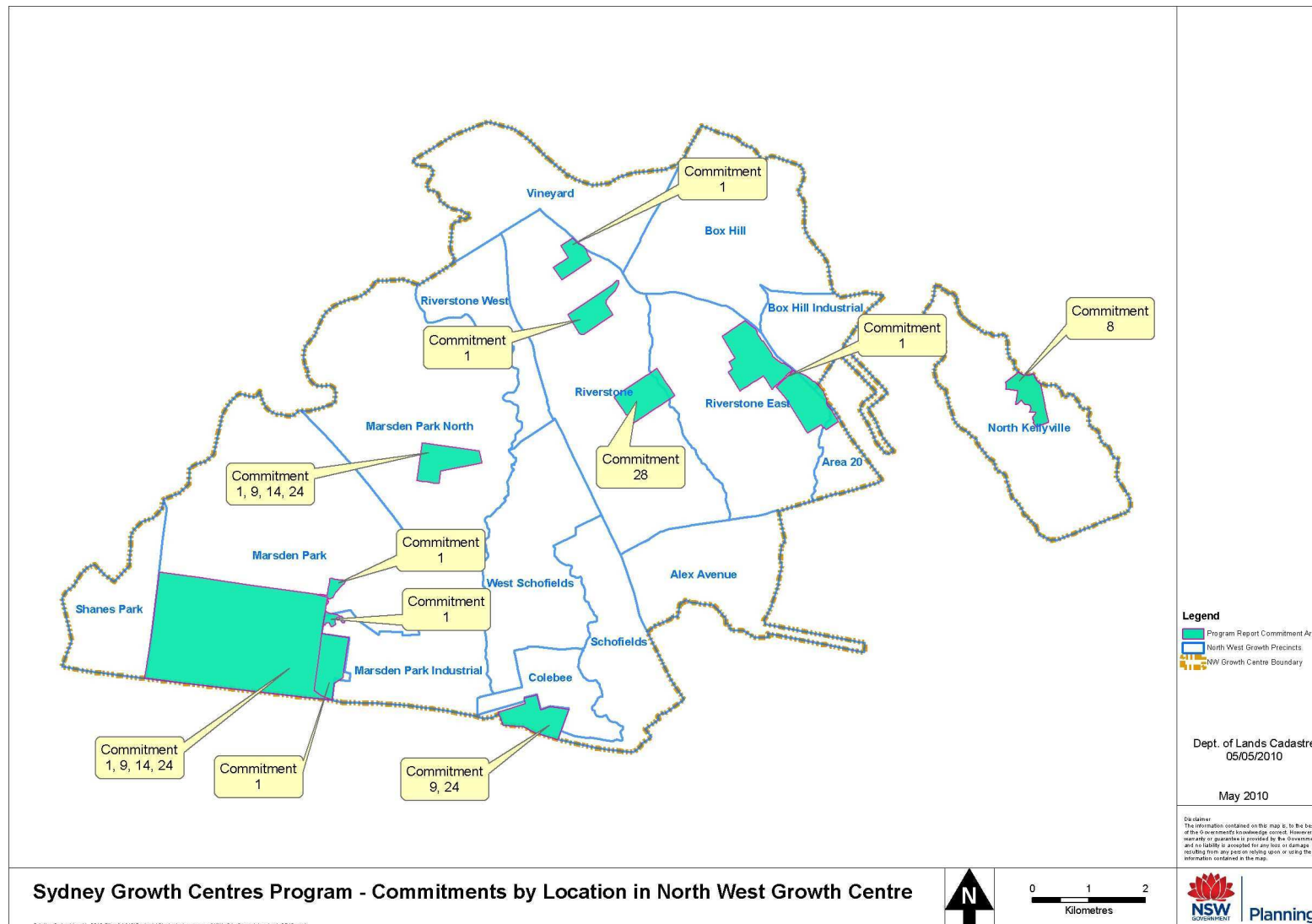


Figure 20: Program commitments by location in the North West Growth Centre

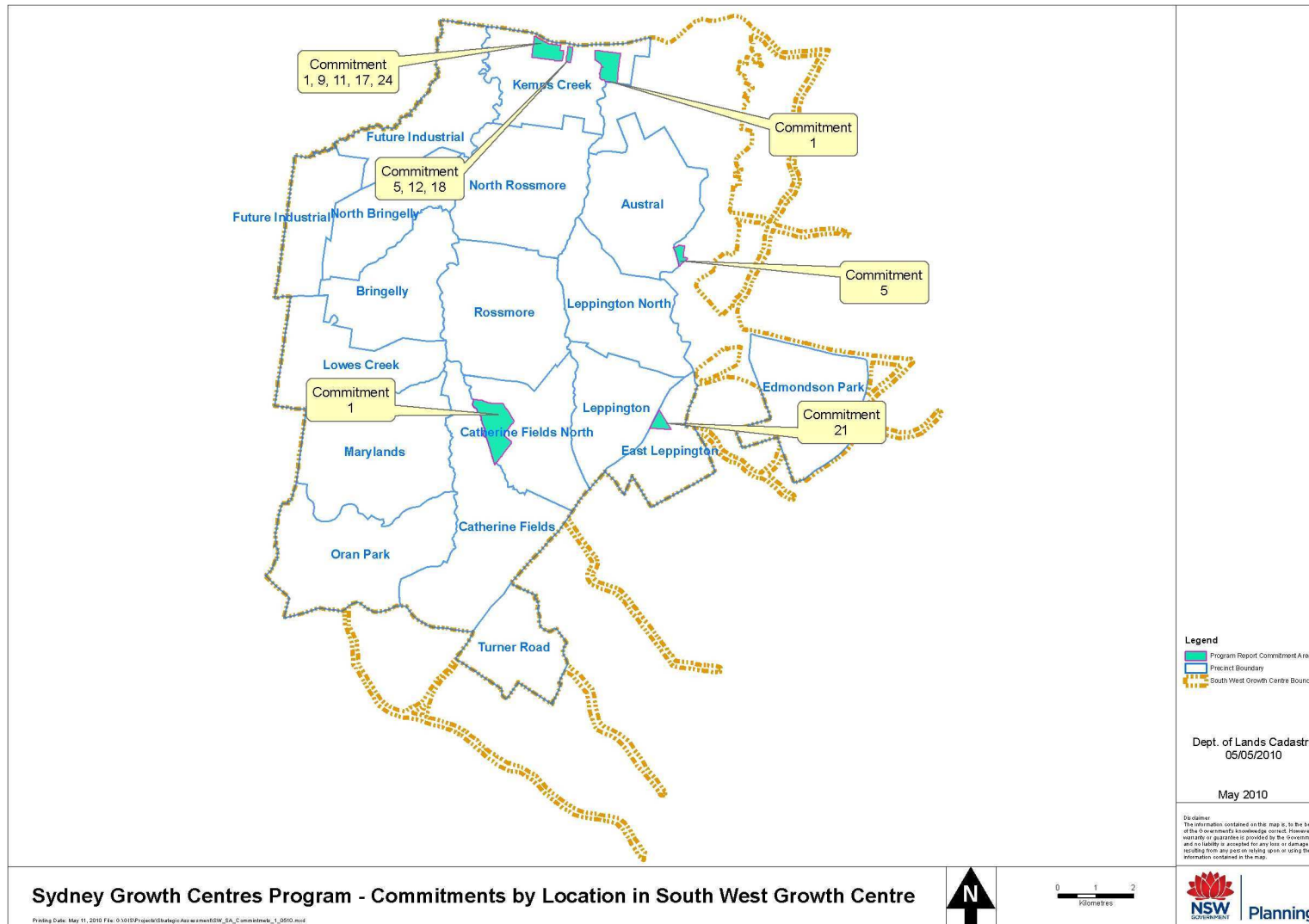


Figure 21: Program commitments by location in the South West Growth Centre

6. Program evaluation, reporting and monitoring

The NSW Government has an established framework for reporting against the requirements of the Relevant Biodiversity Measures. This framework will be adapted to include the EPBC Act reporting and evaluation requirements for the Program.

There are three main elements to the reporting framework:

1. A public annual report highlighting the conservation outcomes achieved in the previous year.
2. A public report highlighting the consistency of each Precinct Plan with the requirements of the Program.
3. A review of the Program every four years to assess progress in achieving the objectives of the Program.

6.1 ANNUAL REPORT

An annual report highlighting the conservation outcomes achieved in the previous year will be published by the NSW Government and provided to DEWHA. This report will be completed within five months of the end of each financial year and will be made publicly available.

The report will address both NSW and Commonwealth requirements and address (among other things):

- the commitments for the relevant matters of national environmental significance (listed in Section 5 of the Program Report); and
- the funding provided and expended for offsets outside of the Growth Centres.

DoP and DECCW will be jointly responsible for the provision of information for the report. DECCW will be responsible for publication of the report.

6.2 PRECINCT PLAN CONSISTENCY REPORT

Each time a precinct within the Growth Centres is planned, DoP will report publicly on the consistency of the precinct with the requirements of the Relevant Biodiversity Measures and the EPBC Act. This report will form part of the package of information exhibited for comment during the public consultation phase of the precinct planning process, and be provided to DEWHA at the same time.

Given the current stage of the strategic assessment process, the final requirements of the EPBC Act are not yet resolved. The content of the consistency reports will be amended as appropriate pending these final requirements.

6.3 PROGRAM REVIEW

The final element in the evaluation framework for the Program will be a concurrent review of both the Relevant Biodiversity Measures and the Program every four years. The purpose of the review will be to assess progress in achieving the objectives of both NSW and the Commonwealth.

The review will be undertaken by DECCW and will include (among other things):

- progress in retaining and protecting the 2,000 ha of native vegetation within the Growth Centres;
- progress in achieving the required offset areas within the Growth Centres;
- progress in securing offsets outside of the Growth Centres; and
- a summary of the outcomes for matters of national environmental significance.

References

Council of Australian Governments' (2009) *Council of Australian Governments' Meeting Communiqué -7 December 2009*. Available from: http://www.coag.gov.au/coag_meeting_outcomes/2009-12-07/docs/20091207_communique.pdf

Department of Environment, Climate Change and Water (NSW) 2009 *Draft Recovery Plan for the Cumberland Plain*, Department of Environment, Climate Change and Water (NSW), Sydney.

Department of Environment and Conservation (NSW) (2005) *Recovering Bushland on the Cumberland Plain: Best practice guidelines for the management and restoration of bushland*. Department of Environment and Conservation (NSW), Sydney.

Department of Environment and Climate Change (2008) *Report on the Methodology for Identifying Priority Conservation Lands on the Cumberland Plain*. Unpublished report prepared by the NSW Department of Environment and Climate Change, Hurstville.

DoP (2010) *Metropolitan Strategy Review - Sydney Towards 2036*. Available at: <http://www.metrostrategy.nsw.gov.au/Resources/SydneyTowards2036/tabid/286/language/en-AU/Default.aspx>

Gilligan, B. (2009) *Operational Review of the Threatened Species Conservation Act 1995 (NSW), the Environmental Planning and Assessment Act 1979 (NSW), and the Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth) July 2009*. Available from: <http://www.environment.gov.au/epbc/publications/nsw-operational-review.html>

Growth Centres Commission (2007) *Draft Growth Centres Conservation Plan*. Growth Centres Commission, Sydney.

Hawke, A. (2009) *The Australian Environment Act: Report of the Independent review of the Environment Protection and Biodiversity Conservation Act 1999 October 2009*. Available from: <http://www.environment.gov.au/epbc/review/publications/final-report.html>

Hawkesbury-Nepean Catchment Management Authority (2008). *Hawkesbury–Nepean Catchment Action Plan 2007 – 2016*.

NSW Government (2005). *Managing Sydney's Growth Centres*. Department of Planning, Sydney.

NSW Scientific Committee (2010). *Preliminary determination - Invasion of Native Plant Communities by African Olive *Olea europaea* L. subsp. *cuspidata* (Wall ex G.Don Ciferri) - proposed key threatening process listing*. Available from: <http://www.environment.nsw.gov.au/determinations/africanolivePD.htm>

Appendix A: State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Note: Current version for 1 April 2010 (accessed 20 April 2010) excludes appendices and dictionary
Complete copies are available from the NSW Legislation website at:
[<http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+418+2006+cd+0+N>]

State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Part 1 Preliminary

1 Name of Policy

This Policy is State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

2 Aims of Policy

The aims of this Policy are (in conjunction with amendments to the regulations under the Act relating to precinct planning) as follows:

- (a) to co-ordinate the release of land for residential, employment and other urban development in the North West and South West growth centres of the Sydney Region,
- (b) to enable the Minister from time to time to designate land in those growth centres as ready for release for development,
- (c) to provide for comprehensive planning for those growth centres,
- (d) to enable the establishment of vibrant, sustainable and liveable neighbourhoods that provide for community well-being and high quality local amenity,
- (e) to provide controls for the sustainability of land in those growth centres that has conservation value,
- (f) to provide for the orderly and economic provision of infrastructure in and to those growth centres,
- (g) to provide development controls in order to protect the health of the waterways in those growth centres,
- (h) to protect and enhance land with natural and cultural heritage value,
- (i) to provide land use and development controls that will contribute to the conservation of biodiversity.

Note. This Policy provides the initial environmental planning instrument component of the *Metropolitan Strategy* released on 4 December 2005 for the release of land for urban and employment development in areas suitable for growth in the Sydney Region (with more detailed land use and other development control components to be progressively included on completion of the planning process in precincts released for urban development from time to time under clause 276 of the Environmental Planning and Assessment Regulation 2000).

3 Interpretation

(1) In this Policy:

growth centre means the North West Growth Centre with boundaries as shown on the North West Growth Centre Precinct Boundary Map or the South West Growth Centre with boundaries as shown on the South West Growth Centre Precinct Boundary Map.

Note. Both of these areas of land are no longer growth centres under the Growth Centres (Development Corporations) Act 1974 but continue to be referred to as growth centres for the purposes of this Policy.

growth centre precinct means a precinct shown on the North West Growth Centre Precinct Boundary Map or the South West Growth Centre Precinct Boundary Map.

growth centre structure plan means:

- (a) in relation to the North West Growth Centre, the structure plan for the growth centre, being the explanatory notes and the map identified by the Minister on the commencement of *State*

Environmental Planning Policy (Sydney Region Growth Centres) Amendment (Miscellaneous) 2010, and

- (b) in relation to the South West Growth Centre, the structure plan for the growth centre, being the explanatory notes and the map identified by the Minister on the commencement of *State Environmental Planning Policy (Sydney Region Growth Centres) Amendment (Miscellaneous) 2010*.

transitional land means land in a growth centre precinct shown as transitional land and hatched pink on the North West Growth Centre Development Control Map or on the South West Growth Centre Development Control Map.

- (2) The Dictionary at the end of this Policy defines words and expressions for the purposes of this Policy.
- (3) A reference in this Policy to a growth centre structure plan is a reference to a plan deposited in the Department.
- (4) Notes in this Policy are provided for guidance and do not form part of this Policy.

4 Consent authority

- (1) Except as provided by a Precinct Plan, the consent authority for the purposes of this Policy is (subject to the Act) the council of the area in which the land concerned is situated.

Note. The Act enables an environmental planning instrument to specify a Minister or another public authority to be the consent authority for all or any particular kind of development in that zoned land. The Minister for Planning can also become the approval authority for development if it is declared to be a project under Part 3A of the Act.

- (2) Despite subclause (1), the consent authority for the purposes of this Policy for land to which *State Environmental Planning Policy (Western Sydney Parklands) 2009* applies is the consent authority stated in clause 10 of that Policy.

5 Land to which Policy applies

This Policy applies to all land in a growth centre.

6 Relationship with other environmental planning instruments

- (1) Subject to section 74 (1) of the Act, in the event of an inconsistency between this Policy and another environmental planning instrument whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.
- (2) (Repealed)

6A Maps

- (1) A reference in this Policy to a named map adopted by this Policy is a reference to a map by that name:
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Policy to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.

- (3A) For the purposes of this Policy, a map may be in, and may be kept and made available in, electronic or paper form, or both.
- (4) A map referred to in this Policy, immediately before the commencement of this clause, is taken to be a map approved by the Minister under this clause.

Part 2 Land use and other development controls resulting from precinct planning

7 Controls applying to precincts after finalisation of precinct planning process

The provisions applying to the carrying out of development in a precinct are those specified in the Appendix listed in Column 2 of the Table to this clause opposite the precinct listed in Column 1 of that Table.

Table

Column 1	Column 2
Precinct and Growth Centre	Appendix
Oran Park and Turner Road Precincts, South West Growth Centre	Appendix 1
North Kellyville Precinct, North West Growth Centre	Appendix 2
Riverstone West Precinct, North West Growth Centre	Appendix 3

Note. The *Environmental Planning and Assessment Regulation 2000* (clauses 275 and 276) makes provision with respect to the staged release of precincts for urban development in the Sydney Region (including with respect to development assessment during the precinct planning process). On completion of the planning process for a precinct, land use and other development controls are to be specified in the relevant Appendix listed in the Table to this clause.

7A Development controls for certain precincts

- (1) Development on land within a precinct referred to in subclause (2) is to be carried out under this Policy in accordance with the provisions specified in subclause (2) in respect of that precinct.
- (2) The following provisions are specified with respect to development on land within the following precincts:
- (a) the provisions of *Blacktown Local Environmental Plan 1988* are specified for the Colebee Precinct within the North West Growth Centre,
 - (b) the provisions of *Campbelltown (Urban Area) Local Environmental Plan 2002* and *Liverpool Local Environmental Plan 2008* are specified for the land within Edmondson Park Precinct within the South West Growth Centre to which those plans apply.

Part 3 Land Use—Environment Conservation and Recreation Zones

8 Application of Part and of other planning instruments

- (1) This Part applies to land within a growth centre precinct that is zoned under this Part.
- (2) Land that is zoned under this Part is not subject to the provisions of any environmental planning instrument (other than a State environmental planning policy or regional environmental plan) applying to the land concerned, except to the extent that this Policy otherwise provides.
- (3) This Part does not apply to land to which a Precinct Plan applies or land referred to in clause 7A.

9 Land use zones

The land use zones under this Part are as follows:

Environment Conservation
Public Recreation—Regional
Public Recreation—Local

10 Objectives for development in land use reservation zones

- (1) The objectives for development in each land use reservation zone are set out in the Table to this clause.
- (2) The consent authority must have regard to the objectives for development in any such zone when determining a development application in respect of land within the zone.

Table

Environment Conservation Zone

- (a) to protect and restore areas of special ecological, scientific or aesthetic values,
- (b) to conserve biological diversity, native vegetation corridors, aboriginal heritage or cultural values of the land, and its scenic qualities.

Public Recreation—Regional Zone

- (a) to enhance, restore and protect the natural and cultural heritage values of the land,
- (b) to enable the land to be used for regional open space or recreational purposes that are consistent with the protection of its natural and cultural heritage values.

Public Recreation—Local Zone

- (a) to enhance, restore and protect the natural and cultural heritage values of the land,
- (b) to enable the land to be used for public open space or recreational purposes that are consistent with the protection of its natural and cultural heritage values.

11 Zoning of land to which Part applies

For the purposes of this Part, land is within the land use zones shown on the land use zoning map.

12 Land use table for zones to which Part applies

- (1) The land use table set out at the end of this clause specifies the following for each land use zone:
 - (a) development that may be carried out without consent,
 - (b) development that may be carried out only with consent,
 - (c) development that is prohibited.
- (2) This clause is subject to the other provisions of this Policy.

Land use table

Environment Conservation Zone

(1) Permitted without consent

Development permitted by or under the National Parks and Wildlife Act 1974 (but only if the land

is reserved under that Act); development for the purpose of eradicating noxious weeds in accordance with the Noxious Weeds Act 1993.

(2) Permitted with consent

Development for advertisements, advertising structures, drainage, earthworks, entertainment facilities, environmental protection works, flood mitigation works, kiosks associated with environmental facilities or recreation areas, recreation areas or restaurants associated with environmental facilities or recreation areas that seat not more than 50 people, telecommunication facilities, telecommunication networks or temporary structures.

(3) Prohibited

Any other development.

Public Recreation—Regional Zone

(1) Permitted without consent

Development permitted by or under the National Parks and Wildlife Act 1974 (but only if the land is reserved under that Act); development for the purpose of eradicating noxious weeds in accordance with the Noxious Weeds Act 1993.

(2) Permitted with consent

Development for advertisements, advertising structures, drainage, earthworks, entertainment facilities, environmental protection works, flood mitigation works, kiosks associated with environmental facilities, public entertainment, recreation areas, recreation facilities, telecommunication facilities, telecommunication networks or temporary structures.

(3) Prohibited

Any other development.

Public Recreation—Local Zone

(1) Permitted without consent

Development permitted by or under the National Parks and Wildlife Act 1974 (but only if the land is reserved under that Act); development for the purpose of eradicating noxious weeds in accordance with the Noxious Weeds Act 1993.

(2) Permitted with consent

Development for advertisements, advertising structures, drainage, earthworks, entertainment facilities, environmental protection works, flood mitigation works, kiosks associated with environmental facilities, public entertainment, recreation areas, recreation facilities, telecommunication facilities, telecommunication networks or temporary structures.

(3) Prohibited

Any other development.

13 Additional permitted uses

(1) Despite anything to the contrary in this Part, development described or referred to in the Table to this clause may be carried out on land zoned under this Part:

- (a) with consent, or
- (b) if the Table so provides—without consent.

(2) The consent authority must have regard to the objectives for development in the zone concerned when determining a development application in respect of any such development.

Table of additional permitted uses

Property description	Additional use	Type of consent
Rouse Hill Regional Park	Information and education facilities	With development consent

14 Development for previously permitted uses of land

- (1) Despite anything to the contrary in this Part, the consent authority may grant consent to the carrying out of development on land zoned under this Part that is not otherwise permitted by this Part if:
- (a) the development is of a kind that could be carried out on the land under an applicable environmental planning instrument immediately before the commencement of this Policy, and
 - (b) the relevant public authority referred to in clause 15 that may be required to acquire the land grants concurrence to the proposed development, and
 - (c) the development is consistent with the aims of this Policy.
- (2) In deciding whether to grant concurrence to proposed development under this clause, the relevant public authority must take the following matters into consideration:
- (a) the need to carry out development on the land for the purposes for which the land is zoned under this Part,
 - (b) the imminence of acquisition of the land by the public authority,
 - (c) the likely additional cost to the public authority resulting from the carrying out of the proposed development.

15 Acquisition of land zoned under this Part

The authority of the State that will be the relevant authority to acquire any land zoned under this Part, if the land is required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, is:

- (a) in the case of land within the Environment Conservation Zone or the Public Recreation—Regional Zone—the corporation constituted under section 8 (1) of the Act, or
- (b) (Repealed)
- (c) in the case of land within the Public Recreation—Local Zone—the council of the area in which the land is situated.

Part 4 Development controls—general

Note. Clauses 16 and 17 do not apply to land to which a Precinct Plan applies or to land referred to in clause 7A.

16 Development applications in growth centres—matters for consideration until finalisation of precinct planning for land

- (1) Until provisions have been specified in a Precinct Plan or in clause 7A with respect to the development of the land, consent is not to be granted to the carrying out of development on land within a growth centre unless the consent authority has taken into consideration the following:
- (a) whether the proposed development will preclude the future urban and employment development land uses identified in the relevant growth centre structure plan,

- (b) whether the extent of the investment in, and the operational and economic life of, the proposed development will result in the effective alienation of the land from those future land uses,
 - (c) whether the proposed development will result in further fragmentation of land holdings,
 - (d) whether the proposed development is incompatible with desired land uses in any draft environmental planning instrument that proposes to specify provisions in a Precinct Plan or in clause 7A,
 - (e) whether the proposed development is consistent with the precinct planning strategies and principles set out in any publicly exhibited document that is relevant to the development,
 - (f) whether the proposed development will hinder the orderly and co-ordinated provision of infrastructure that is planned for the growth centre,
 - (g) in the case of transitional land—whether (in addition) the proposed development will protect areas of aboriginal heritage, ecological diversity or biological diversity as well as protecting the scenic amenity of the land.
- (2) This clause does not apply to land zoned under Part 3.

17 Referral to Department of Planning after release of precinct

- (1) This clause applies to land within a growth centres precinct that has been released by the Minister under the *Environmental Planning and Assessment Regulation 2000* for urban development, and so applies until provisions have been specified in a Precinct Plan or in clause 7A with respect to the development of the land.
- (2) The consent authority must, in the case of a development application for the carrying out of development (not being for a single residential dwelling):
- (a) with a capital investment value of more than \$500,000, or
 - (b) in respect of land that has an area of more than 2 hectares, or
 - (c) that is a subdivision of land (being a subdivision that creates 2 or more lots),
- refer the application to the Director-General of the Department of Planning for comment.

Note. The *Environmental Planning and Assessment Regulation 2000* (clause 275) provides that a development application referred to in this subclause cannot be made unless it is accompanied by an assessment of the consistency of the proposed development with the relevant growth centre structure plan.

- (3) The consent authority must take any comments received from the Director-General of the Department of Planning (within 21 days after the development application was referred to the Director-General for comment) into consideration when determining whether to grant consent to any such development.
- (4) For the purposes of this clause, the capital investment value of development includes all costs necessary to establish and operate the development, including the design and construction of buildings, structures, associated infrastructure and fixed or mobile plant (but excluding land costs).

18 Water recycling and conservation

Note. This clause and clauses 18A and 18B apply to all land to which this State Environmental Planning Policy applies.

- (1) This clause applies to land within a growth centre:
- (a) that is serviced by a water recycling plant, or
 - (b) that will be serviced by a water recycling plant as soon as the plant becomes operational.

- (2) A consent authority must not grant consent to the carrying out of development on land unless the consent authority is satisfied that recycled water from the water recycling plant will be provided to the development.
- (3) However, the consent authority may grant consent if it is satisfied that the development will be provided with recycled water from a water recycling or water conservation system approved by the Minister and specified in the Table to this clause.

Table of approved systems

Note.

On the commencement of this Policy, the Table was blank.

18A Public utility undertakings

Development for public utility undertakings (other than electricity generating works or water recycling facilities) may be carried out without consent on land to which this Policy applies.

18B Electricity generating works and water recycling facilities

The consent authority must not grant consent to development for the purpose of electricity generating works or water recycling facilities unless it is satisfied that the development:

- (a) will be of a small scale, and
- (b) is likely to have only a minor environmental impact, and
- (c) is consistent with the principles of ecologically sustainable development.

Part 5 Development controls—flood prone and major creeks land

19 Development on flood prone and major creeks land—additional heads of consideration

- (1) This clause applies to development requiring consent that is carried out on flood prone and major creeks land (other than any such land to which clause 20 applies).
- (2) Consent is not to be granted to the carrying out of development to which this clause applies unless the consent authority has taken the following into consideration:
 - (a) whether or not the development will adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties,
 - (b) whether or not the development will alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain,
 - (c) whether the development will enable safe occupation of the flood prone and major creeks land,
 - (d) whether or not the development will detrimentally affect the floodplain environment or cause avoidable erosion, siltation, salinity, destruction of riparian vegetation or a reduction in the stability of the riverbank/watercourse,
 - (e) whether or not the development will be likely to result in unsustainable social and economic costs to the flood affected community or general community, as a consequence of flooding,
 - (f) whether or not the development is compatible with the flow conveyance function of the floodway,
 - (g) whether or not the development is compatible with the flood hazard,

- (h) in the case of development consisting of the excavation or filling of land, whether or not the development:
 - (i) will detrimentally affect the existing drainage patterns and soil stability in the locality, and
 - (ii) will significantly impact on the likely future use or redevelopment of the land, and
 - (iii) will adversely impact on the existing and likely amenity of adjoining properties, and
 - (iv) will minimise the disturbance of relics, and
 - (v) will adversely impact on any watercourse, drinking water catchment or environmentally sensitive area.

Note. Section 79C of the Act requires other matters to be taken into consideration by a consent authority, including any draft environmental planning instrument that is placed on public exhibition during the precinct planning process for the purpose of including relevant land use and other development controls in an Appendix to this Policy.

20 Development on and near certain land at Riverstone West

- (1) This clause applies to the land shown outlined in red on the North West Growth Centre Development Control Map.
- (2) Despite any other provision of this Policy (including any Precinct Plan), the consent authority must not grant consent for development on land to which this clause applies unless it is satisfied that the proposed development:
 - (a) will be undertaken in a manner that is consistent with the Floodplain Management Strategy (being part of the *Riverstone West Precinct Development Control Plan*), and
 - (b) does not increase flood levels on adjoining properties in events up to the design 100 year recurrence flood, and
 - (c) limits any increases in flood velocities on adjoining properties in events up to the design 100 year recurrence flood to minor increases only, and
 - (d) is not likely to result in adverse flood impacts on adjoining properties (including during any construction stage of the proposed development).
- (3) This clause does not apply to development that the consent authority is satisfied is minor and will not result in unacceptable adverse flood impacts on adjoining properties.

Part 6 Development controls—vegetation

21 Land to which Part applies

- (1) This Part applies to the following land:
 - (a) land zoned under Part 3,
 - (b) flood prone and major creeks land,
 - (c) transitional land,
 - (d) land that is:
 - (i) under State Environmental Planning Policy (Western Sydney Parklands) 2009, in an environmental conservation area shown on the State Environmental Planning Policy (Western Sydney Parklands) 2009 Environmental Conservation Areas Map, and
 - (ii) in a growth centre.
- (2) This Part does not apply to land reserved under the National Parks and Wildlife Act 1974, unless the land is land mentioned in subclause (1) (d).

- (3) In relation to land in the Oran Park and Turner Road Precincts, this Part applies to land within the Riparian Protection Area shown on the Riparian Protection Area Map.
- (4) Despite subclause (1), this Part does not apply to the following:
 - (a) the North Kellyville Precinct,
 - (b) the Riverstone West Precinct.

22 Vegetation to which Part applies

- (1) This Part applies to native vegetation within the meaning of the Native Vegetation Act 2003.
- (2) This Part does not apply to any particular native vegetation that the council of the area concerned is satisfied:
 - (a) is dying or dead and is not required as the habitat of native fauna, or
 - (b) is a risk to human life or property.
- (3) This Part does not apply to any native vegetation:
 - (a) within a State forest, or land reserved from sale as a timber or forest reserve under the Forestry Act 1916, or
 - (b) declared to be noxious weeds under the Noxious Weeds Act 1993.

23 Consent for clearing native vegetation

- (1) A person must not clear native vegetation on land to which this Part applies without:
 - (a) approval under Part 3A of the Act, or
 - (b) development consent.

For the purposes of this clause, **clearing native vegetation** has the same meaning as it has in the Native Vegetation Act 2003.

Note. A consent of the relevant consent authority required under this clause for the clearing of native vegetation is in addition to any development consent required or granted by the Minister for Natural Resources under the Native Vegetation Act 2003 in respect of that clearing.

- (2) Development consent under this clause is not to be granted unless the consent authority is satisfied of the following in relation to the disturbance of bushland caused by the clearing of the vegetation:
 - (a) that there is no reasonable alternative available to the disturbance of the bushland,
 - (b) that as little bushland as possible will be disturbed,
 - (c) that the disturbance of the bushland will not increase salinity,
 - (d) that bushland disturbed for the purposes of construction will be re-instated where possible on completion of construction,
 - (e) that the loss of remnant bushland caused by the disturbance will be compensated by revegetation on or near the land to avoid any net loss of remnant bushland,
 - (f) that no more than 0.5 hectare of bushland will be cleared unless the clearing is essential for a previously permitted use of the land.
- (3) The consent authority must, when determining a development application in respect of the clearing of native vegetation on land within a zone under Part 3, have regard to the objectives for development in that zone.
- (4) This clause does not apply to or in respect of action required or authorised to be done by or under the Electricity Supply Act 1995, the Roads Act 1993, the Sydney Water Act 1994 or the Surveying Act 2002.

24 Relationship to tree preservation under other planning instruments

This Part does not affect any requirement of another environmental planning instrument applying to the land concerned relating to the preservation of trees. However, a development consent granted under this Part that allows any clearing of native vegetation satisfies any requirement under that other instrument for approval of any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree resulting from any such clearing.

Part 7 Development controls—cultural heritage landscape area

25 Application of Part

This Part applies to development requiring consent that is carried out on the cultural heritage landscape area, being the land in the vicinity of the Rouse Hill House Estate that is shown hatched brown on the map marked “Sydney Region Growth Centres Development Control Map—North West Growth Centre”.

26 Development on land in cultural heritage landscape area—additional heads of consideration

Consent is not to be granted to the carrying out of development to which this Part applies unless the consent authority has taken the following into consideration:

- (a) whether or not the development will adversely impact on the cultural heritage values of the Rouse Hill House Estate and its setting, having regard, in particular, to the following matters:
 - (i) any proposed subdivision design and layout,
 - (ii) the siting, height, bulk and scale of any proposed buildings or works (including any buildings or works likely to result from any proposed subdivision),
 - (iii) the materials and colours to be used in any proposed buildings, fences or other structures,
 - (iv) the extent, location and form of any proposed landscaping and its ability to reduce the visual impact of the development,
 - (v) the impact of the development on any archaeological relics,
- (b) a site analysis of the cultural heritage landscape area that assesses development that is responsive to the topography of the area and to other development in the vicinity,
- (c) a visual analysis that assesses the impact of the development on views to and from the Rouse Hill House Estate,
- (d) measures to minimise any adverse impact of the development on the cultural heritage values of Rouse Hill House Estate and its setting.

Note. Section 79C of the Act requires other matters to be taken into consideration by a consent authority, including any draft environmental planning instrument that is placed on public exhibition during the precinct planning process for the purpose of including relevant land use and other development controls in Schedule 1.

Appendix B: Growth Centres Biodiversity Certification Order - Relevant Biodiversity Measures

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.

Note: 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,
 - i. 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
<i>Acacia pubescens</i>	<u>Potential populations at Cross Street, Kemps Creek and Thirty-second Avenue, Austral</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.

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

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

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 with similar ecological values that are outside 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 outside 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,
 - i. 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 outside 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 outside 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 outside 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 126I 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 126I 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 126I 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 outside 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 outside 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.

Third Preference: Grassy Woodlands within the Hawkesbury Nepean 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 outside the Growth Centres must include a known population(s) or suitable habitat for the plant species *Cynanchum elegans*.

Note: 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.