

Growth Centres Biodiversity Certification

Assessment of Consistency between the Relevant Biodiversity Measures of the Biodiversity Certification Order and Area 20 Precinct

November 2010

1. Introduction

In July 2008 an amendment was made under Schedule 7 Part 7 to the *Threatened Species Conservation Act 1995* (TSC Act) to confer biodiversity certification on the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP). Compliance with the relevant biodiversity measures (RBMS) in the biodiversity certification order (dated 14 December 2007) is required to maintain the certification. The RBMs require (among other things) the retention of 2000 hectares of existing native vegetation within the Growth Centres and additional offsetting outside the Growth Centre boundaries.

This report has been prepared to fulfil the requirement of RBM 35 for an assessment of the consistency of proposed precinct plans with the biodiversity certification and the RBMs.

This report has been prepared in a table format and addresses all RBMs that are relevant to precinct planning. It is noted that many of the RBMs are not specific to precinct planning and have therefore not been included in the report.

A complete copy of the biodiversity certification order (including all relevant biodiversity measures) can be found on the Department of Environment, Climate Change and Water's website at http://www.environment.nsw.gov.au/biocertification/notcert.htm

Where the report indicates that precinct planning is inconsistent with the biodiversity certification, full justification for the inconsistency is provided as part of the ecological assessment for the precinct.

Definitions

Terms defined below appear in **bold** in the table. Where the terms are also defined in the Biodiversity Certification Order, the definitions provided are consistent with those in the Order.

- Biodiversity Certification Maps means the maps marked "North West Growth Centre Biodiversity Certification" and "South West Growth Centre – Biodiversity Certification" dated November 2007 and included in Schedule 2 of the Biodiversity Certification Order.
- Certified Area means an area marked as a certified area on a biodiversity certification map.
- Clearing of existing native vegetation means any one or more of the following:
- a) cutting down, felling, thinning, logging or removing existing native vegetation in whole or in part,
- b) killing, destroying, poisoning, ringbarking, uprooting or burning existing native vegetation in whole or in part.
- Existing Native Vegetation means (ENV) areas of indigenous trees (including any sapling) that:
- a) had 10% or greater over storey canopy cover present,
- b) were equal to or greater than 0.5 ha in area, and
- c) were identified as "vegetation" on maps 4 and 5 of the draft Growth Centres Conservation Plan.
- DECC means the former Department of Environment and Climate Change which is now the Department of Environment, Climate Change and Water (DECCW).
- GCC means the former Growth Centres Commission which is now the Department of Planning (DoP).
- Minister means the Minister administering the TSC Act.
- Non-certified Area means an area marked as a non-certified area on a biodiversity certification map.

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- Protection/Protected in relation to land means land that is protected by a land use zoning under an environmental planning
 instrument or public ownership arrangements that provide for the protection of biodiversity values as a priority, or another
 arrangement that provides in perpetuity security for biodiversity on the subject land.
- Relevant Biodiversity Measures means the conditions in Schedule 1 of the Biodiversity Certification Order.
- TSC Act means the Threatened Species Conservation Act 1995.

2. Assessment

Table 1: Assessment of consistency between the relevant biodiversity measures of the Biodiversity Certification Order and the Area 20 Precinct.

	Relevant Biodiversity Measure	Area 20 Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
Gene	eral			
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.	All information required by the RBMs for the Area 20 Precinct will be publicly exhibited.	Yes	 The following information will be publicly exhibited: this report in accordance with RBM 35; Information required by RBM 8, as contained in this report. Information required by RBM 13 (Ground truthing), as contained in this report.; Information required by RBM 36, as contained in this report.
Nativ	re 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.	The Growth Centres Conservation Plan identifies 11.3 ha of existing native vegetation across the Area 20 Precinct (excluding ENV in the Rouse Hill Regional Park) located in non-	Yes	A total of 12.9 ha of validated ENV as defined in the order is to be protected and retained under the Area 20 Precinct Plan. (Refer to Annex D - ENV map) This consists of 8.1 ha in non certified land, 0.5 ha in certified

	Relevant Biodiversity Measure	Area 20 Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
		certified lands which needs to be retained or otherwise offset to maintain parity with the broader 2,000 hectare requirement.		land within the 1 in 100yr floodline, 3.2 ha in Cudgegong Reserve and 1.1ha in pocket parks in certified land In addition to the above, during field surveys, 4.1ha of additional native vegetation meeting the condition description of ENV but not mapped in the growth centres conservation plan was recorded within the area 20 precinct. 1.8 ha of this will be protected throughout the precinct which includes 1.4ha protected in non certified areas . See Annex D. The principle protection mechanism is clause 6.5 of the SEPP which prohibits clearing of existing native vegetation as shown on the Native Vegetation Protection Map (Annex C)
Reter	ntion 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.	0.2ha of validated ENV within non-certified areas in the Area 20 Precinct is required to be cleared to enable the upgrade of the Rouse Road Bridge and the construction of the North West Rail Link Bridge.	Yes	See below

	Relevant Biodiversity Measure	Area 20 Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
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 noncertified 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 <i>Rivers and Foreshores Improvement Act</i> 1948 and Water Management Act 2000),	Measures consistent with RBM 8(a) have been implemented to offset the impacts of clearing of ENV as described in relation to RBM 7.	Yes	Of the 8.3 ha of ENV in noncertified areas, 0.2 ha will be cleared (for the Rouse Road Upgrade and NWRL extension). This will be directly offset by the protection of 0.2 ha ENV within 1-in-100 year flood line, which is located on lands that are currently certified. This area will be protected through the Native Vegetation Retention Map and will be retained in public ownership and managed by Sydney Water. Overall, the Area 20 Precinct plan will protect 12.9 ha of ENV which is 1.6 ha more ENV than is required to maintain parity with the 2000Ha of ENV to be retained across the Growth Centres. This 12.9 ha consists of 8.1 ha of non-certified lands, 3.2 ha in Cudgegong Reserve, 1.1 ha in pocket parks and 0.5 ha in the certified land within the 1-in-100-year flood line.

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	(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			
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.	N/A	N/A	
Reter	ntion of existing native vegetation shown in areas marked with red			
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.	One area of land in the Area 20 Precinct, comprising the Rouse Hill Regional Park, is subject to RBM12. The Area 20 Precinct Plan will not apply to Rouse Hill Regional Park and the existing controls will be retained over this area.	N/A	Rouse Hill Regional Park has not been included in the assessment of ENV for the purposes of consistency against the biodiversity certification order. DECCW will continue to manage the Rouse Hill Regional Park as a Regional Parkland.

	Relevant Biodiversity Measure	Area 20 Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
Grou	nd-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.	Eco Logical Australia conducted ground truthing of existing native vegetation within the Precinct. The calculations of loss and protection within this document (for conditions 7 to 8 and 11 to 12) reflect the updated vegetation mapping.	Yes	Further detailed assessment is contained within the Area 20 Precinct Ecological Assessment (Eco Logical Australia 2010), The draft Conservation Plan maps 65.8 ha of ENV within the Area 20 precinct, 11.3ha of which falls within non certified land areas. Field survey validated 36.1 ha of ENV throughout the precinct of which 8.3 ha was located in non certified areas. An additional 1.8 ha of vegetation will be protected which meets the definition of ENV but was not previously mapped under the draft Conservation Plan (1.4 ha in currently non-certified areas and 0.4 ha in parks in currently certified areas).
Addit veget	cional conservation actions within the Growth Centres – native cation			
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 .	Not applicable to Area 20	N/A	

	Rel	levant Biodiversity Measure	Area 20 Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
15		rred to in condition 14 must examine whether teria specified in Schedule 3.	Not applicable to Area 20	N/A	
16	advice to the Minister the certified areas or	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 .		N/A	
Addi	tional conservation ac	tions within the Growth Centres – plants			
17	the Growth Centres D	preparation of the relevant precinct plan(s) under evelopment Code relating to the areas referred the following actions must be undertaken:	Not applicable to Area 20	N/A	
	Species	Required action			
	Acacia pubescens	Potential populations at Cross Street, Kemps Creek and Thirty-second Avenue, Austral – as shown in black hatching on the biodiversity certification maps:			
		 survey to confirm the presence of the species, and 			
	 if the species is present, provide for the protection of the area of suitable habitat for the species to the satisfaction of the DECC 				
	Pimelea spicata	Potential populations at Denham Court Road - as shown in black hatching on the biodiversity certification maps:			
		 survey to confirm the presence of species, and 			
		if the species is present, provide for the protection of the area of suitable habitat for the species to the			

Rele	evant Biodiversity Measure	Area 20 Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
	satisfaction of the DECC			
Persoonia hirsuta	Potential populations at North Kellyville – as shown in black hatching on the biodiversity certification maps:			
	survey to confirm the presence of the species, and			
	if the species is present, provide for the protection of the area of suitable habitat for the species to the satisfaction of the DECC.			
Leucopogon fletcheri	Known population at North Kellyville- as shown in black hatching on the biodiversity certification maps:			
	survey to confirm the extent of the population, and			
	 provide for the protection of the population to the satisfaction of the DECC. 			
Darwinia biflora	Known populations at North Kellyville - as			
Hibbertia superans	shown in black hatching on the biodiversity certification maps:			
Epacris purpurascens var purpurascens	survey to confirm the extent of the populations, and			
Eucalyptus sp "Cattai"	provide for the protection of the population to the satisfaction of the DECC .			
that it is appropriate to	of the above actions the Minister may decide amend the boundaries of the area subject to a, in accordance with condition 3.			

	F	Relevant Biodiversity Measure	Area 20 Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
18	the Growth Centres	e preparation of the relevant precinct plan(s) under b Development Code relating to the area referred w, the following actions must be undertaken:	Not applicable to Area 20	N/A	
	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.	the area of suitable habitat		
		Option 2			
		if the species is present at Riverstone but cannot be adequately protected to the satisfaction of the DECC , then:			
		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 .			
	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.				
\ddit	ional conservation	actions within the Growth Centres –			

	Relevant Biodiversity Measure	Area 20 Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
deve	opment 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 re-location 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 revegetation or restoration works and landscaping in the Growth Centres.	These provisions will be incorporated into the DCP for the Precinct.	Yes	
Futur	e 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.	This assessment of consistency has been prepared to satisfy this RBM. This report will be publicly exhibited with the full precinct planning package.	Yes	This assessment addresses all RBMs applicable to the planning for Area 20 Precinct and will be publicly exhibited.
Futu	re 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 Growth Centres Commission must (as soon as practicable) provide advice to the DECC on whether:	Cumberland Plain Woodland has been determined as a critically endangered ecological community (CEEC) under the TSC Act. This	Yes	Cumberland Plain Woodland was assessed as a CEEC within the Area 20 Ecological Report (Eco Logical Australia 2009).

	Relevant Biodiversity Measure	Area 20 Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
	 (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. 	community is present within the Area 20 Precinct.		
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.	DECCW advised early in the planning process when the preliminary listing of CPW as a CEEC was in place, that ecological studies should assess CPW as a CEEC. As such CPW was assessed as a CEEC.	Yes	CPW was assessed as a CEEC within the Ecological Report.

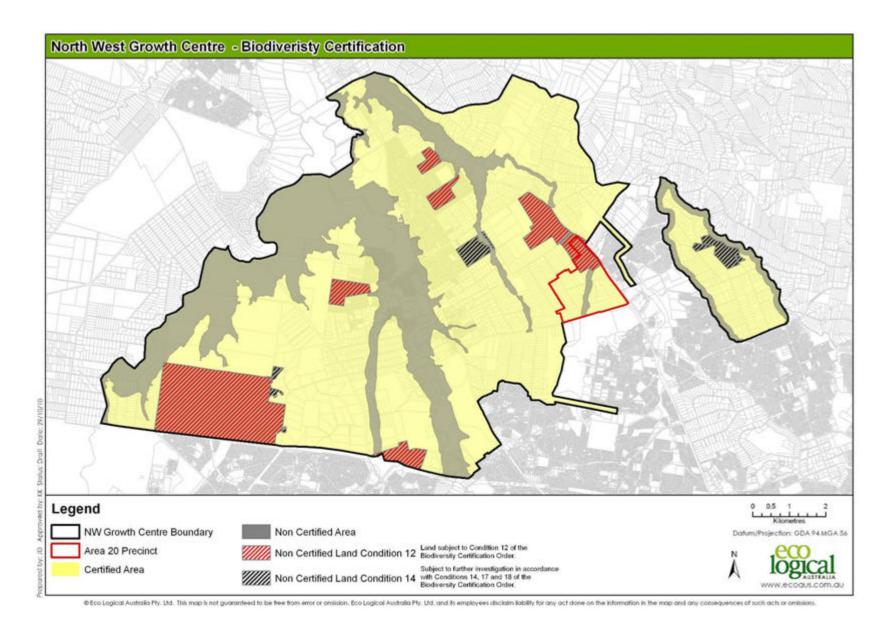
3. Conclusion

This report has undertaken an assessment of the consistency of the Area 20 Precinct Plan with the biodiversity certification and the applicable relevant biodiversity measures.

It is concluded that the draft Area 20 Precinct Plan is consistent with the biodiversity certification of the Growth Centres SEPP, as follows:

- Areas of ENV are to be protected within non-certified and certified areas in excess of the contribution required for the
 precinct to maintain parity with the 2000 hectares of ENV to be protected across the Growth Centres (11.3 ha required
 excluding Rouse Hill Regional Park).
- 8.1 ha of existing native vegetation will be retained in non- certified areas and protected through the SEPP. The subject land will be owned by public authorities and the existing native vegetation conserved and rehabilitated.
- An additional 4.8 ha of validated existing native vegetation will be protected in certified areas within Cudgegong Reserve (3.2 ha), certified areas within the 1 in 100yr flood line (0.5 ha) and pocket parks (1.1 ha). These areas will be retained in Public ownership and included in the Native Vegetation Retention Map which will subsequently protect ENV through the Growth Centres SEPP.
- In addition to the above, 1.8 ha of vegetation recorded on site meeting the definition of ENV but which was not mapped in the Growth Centres Conservation Plan will be protected in non-certified lands and pocket parks.
- As such a total of 14.7 ha of existing native vegetation will be retained and protected across the precinct which is 3.4 ha
 more than that required within the Precinct. This figure exceeds the amount required to meet the 2000ha in parity
 (11.3ha) and the offset required for the Rouse Road bridge upgrade and construction of the North West Rail Link
 extension (0.2ha).
- 0.2 ha of non-certified ENV in the Precinct is anticipated to be cleared due to the Rouse Road Bridge upgrade and North West Rail Link Bridge construction. This will be offset by the protection of 0.2 ha of the protected ENV onsite within certified lands that lie within the 1 in 100 year flood line.
- Cumberland Plain Woodland which is present in the Area 20 Precinct was assessed as a critically endangered community in the Ecological Report.
- Provisions are included in the Precinct Plan that prohibits clearing of ENV. The Department may also amend the boundaries of the certified lands to include all ENV that is to be protected in Cudgegong reserve and the 1 in 100 year flood line.

sessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Area 20 Precinct
Annex A
Biodiversity Certification Context Map

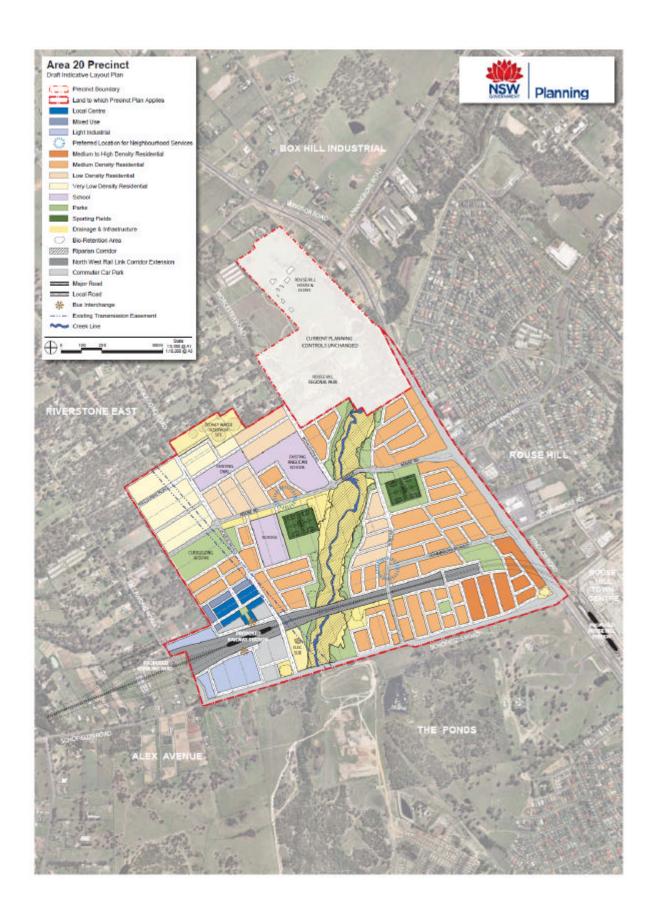


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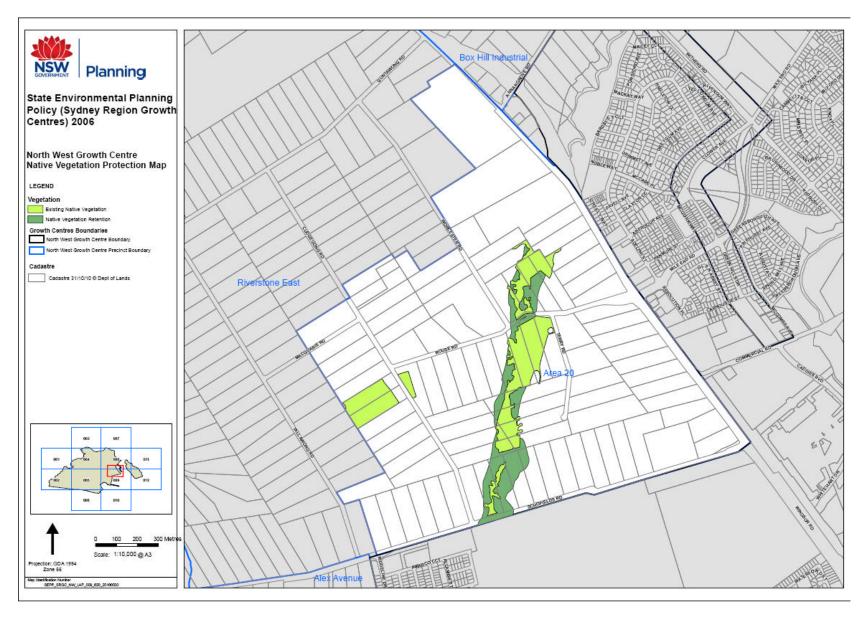
Annex B

Area 20 Precinct Draft Indicative Layout Plan

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Area 20 Precinct



Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Area 20 Precinct
Annex C
Native Vegetation Protection Map (draft SEPP Map)



Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Area 20 Precinct
Annex D
Validated ENV in Area 20 Precinct (as a result of groundtruthing

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