

# **Growth Centres Biodiversity Certification**

Assessment of Consistency between the Relevant Biodiversity Measures of the Biodiversity

Certification Order and Vineyard Precinct Stage 1

October 2017
Update post-exhibition

#### 1. Introduction

In December 2007 an order conferring biodiversity certification on *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* was made by the Minister for the Environment under section 126G of the then *Threatened Species Conservation Act 1995* (TSC Act).

In July 2008, the Minister's certification was validated by the *Threatened Species Conservation Amendment (Special Provisions) Act 2008* which was subsequently incorporated into Part 7 of Schedule 7 of the TSC Act. The amendment gives the Minister for the Environment the power to suspend or revoke the certification if any of its conditions, termed Relevant Biodiversity Measures (RBMs), are not complied with.

The RBMs applying to the certification have remained unaltered since gazettal of the original order and require (among other things) the permanent protection of 2000 hectares of high quality vegetation within the Growth Centres.

On 25 August 2017, the *Biodiversity Conservation Act 2016* (BC Act) came into force, replacing the TSC Act. However, it is noted the Biodiversity Conservation (Savings and Transitional) Regulation 2017 provides for a 12 month period in certain LGA (western Sydney) where a Part 4 (EP&A Act) DA can be lodged under the previous legislation.

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 relevant biodiversity measures can be found on the Office of Environment and Heritage's website at <a href="http://www.environment.nsw.gov.au/biocertification/notcert.htm">http://www.environment.nsw.gov.au/biocertification/notcert.htm</a>

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.

The rezoning of this precinct will be divided into two stages. As such this report outlines the fulfilment of the requirements for Stage 1. The specific numbers for Stage 2 will be provided when the rezoning process is commenced for that area.

#### **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.

- Additional High Conservation Value Vegetation (AHCVV) means areas of vegetation which were found during ground-truthing which would
  otherwise meet the definition of Existing Native Vegetation but was not originally identified as "vegetation" on maps 4 and 5 of the draft
  Growth Centres Conservation Plan.
- 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 (ENV) means areas of indigenous trees (including any sapling) that:
- a) had 10% or greater over storey canopy cover present,
- b) were equal to or greater than 0.5 Ha in area, and
- c) were identified as "vegetation" on maps 4 and 5 of the draft Growth Centres Conservation Plan.
- DECC means the Department of Environment and Climate Change (which is now the Office of Environment and Heritage).
- GCC means the Growth Centres Commission constituted under the Growth Centres (Development Corporations) Act 1974 (which is now the Department of Planning and Environment).
- Minister means the Minister administering the TSC Act and/or the BC Act
- Non-certified Area means an area marked as a non-certified area on a biodiversity certification map.
- Protection or Protected in relation to land means land that is protected by a land use zoning under an environmental planning instrument or public ownership arrangements that provide for the protection of biodiversity values as a priority, or another arrangement that provides in perpetuity security for biodiversity on the subject land.
- Relevant Biodiversity Measures means the conditions in Schedule 1 of the Biodiversity Certification Order.
- TSC Act means the Threatened Species Conservation Act 1995.
- BC Act means the Biodiversity Conservation Act 2016

#### 2. Assessment

Table 1: Assessment of consistency between the relevant biodiversity measures of the Biodiversity Certification Order and the Vineyard Precinct Stage 1

	Relevant Biodiversity Measure	Vineyard Precinct - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Stage 1 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 Vineyard Precinct will be publicly exhibited.	Yes	All information required by the RBMs for Stage 1 Vineyard Precinct will be publicly exhibited.
Nativ	ve 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 draft Conservation Plan identifies 62.1 Ha of ENV to be retained within the entire Precinct to maintain parity with the 2000 Ha requirement. 18.2 ha of which is to come from within <b>Stage 1</b> .	Yes	Within Stage 1, 18.2 ha of ENV would need to be retained under the draft Growth Centre Conservation Plan.  Within Stage 1 a total of 16.1 Ha of field validated ENV as defined under the order is to be protected and retained under the Stage 1 Vineyard Precinct Plan (Annex B and C). This includes 13.4 Ha of field validated ENV which currently lies within in non-certified lands and 2.7 Ha of field validated ENV in currently certified lands.  The protection of ENV in the Precinct Plan will be achieved using zoning (i.e. E2 SP2 and RE1) and the following clauses in the SEPP:  - Development Controls – Existing Native Vegetation – this clause will prohibit the clearing of ENV as mapped on the Native Vegetation Protection map (Annex C)

	Relevant Biodiversity Measure	Vineyard Precinct - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Stage 1 Justification
				(Refer to Annex D which highlights areas of ENV in non-certified areas which will not be retained and location of proposed offsets, including ENV in certified areas)  Additional areas of ENV to be protected in currently certified areas will become non-certified land in an amended Biodiversity certification map under Schedule 7, Part 7 of the TSC Act 1995 (or relevant component of the BC Act 2016)
Rete plan	ention of existing native vegetation during precinct ning			
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.	1.7 Ha of non-certified ENV will be lost for essential infrastructure.	Yes	1.7 Ha of validated Non-Certified ENV will be cleared within Stage 1. This loss is partially offset by the retention of an additional 2.7 Ha of field validated certified ENV within the RE1 zone.
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 noncertified 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	As 1.7 Ha of mapped noncertified ENV will be lost to infrastructure/development, this must be offset.  Measures consistent with RBM 8(a)/(b) have been implemented to offset impacts of clearing of ENV as described in relation to RBM 7.	Yes	Within Stage 1, 16.1 Ha of validated ENV will be retained, resulting in an ENV deficit for Stage 1 of 2.1 ha. The impact of the essential infrastructure/development will therefore be required to be offset in Vineyard Stage 2 or elsewhere in the Growth Centres.

	Relevant Biodiversity Measure		Vineyard Precinct - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Stage 1 Justification
		maintenance of biodiversity values for threatened species, populations and ecological communities and their habitats,			
	(ii)	the revegetated and/or restored areas will be <b>protected</b> ,			
	(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 <b>clearing</b> 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 1948</i> and <i>Water Management Act 2000</i> ),			
	(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 <b>protect</b> 2,000 hectares of existing vegetation required in condition 6. The			Not Applicable	

	Relevant Biodiversity Measure	Vineyard Precinct - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Stage 1 Justification
	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.  ntion of existing native vegetation shown in areas			
mark	ted 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.	No areas marked by red hatching in the certification Order apply to Stage 1	Yes	Not applicable
Grou	and-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 <b>existing native vegetation</b> , then for the purposes of conditions 7 to 8 and condition 11 to 12 only the area of confirmed <b>existing native vegetation</b> shall be considered.	Eco Logical Australia conducted ground truthing of ENV within the Precinct (on two separate occasions). The calculations of loss is based on the originally mapped ENV (to maintain comparison with the Precinct target) whilst protection is calculated on field validated ENV (for conditions 7 to 8 and 11 to 12) reflect the updated vegetation mapping.	Yes	Within Stage 1 the draft conservation plan maps 37.2 Ha of ENV within Stage 1 Vineyard Precinct, 18.2 Ha of which falls within non-certified land areas.  Field Survey validated 31.5 Ha of ENV currently existing throughout the Precinct of which 18.2 Ha is located in noncertified areas. (some of which has been removed due to fragmentation reducing the patch to less than 0.5 ha)  Field surveys also recorded areas totalling 18.8 ha of additional high conservation value vegetation (AHCVV) throughout the Precinct, of which 1.1 Ha is located within noncertified land.

	Relevant Biodiversity Measure	Vineyard Precinct - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Stage 1 Justification
	tional conservation actions within the Growth Centres – e 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.		Not Applicable	
15	The assessment referred to in condition 14 must examine whether the areas meet the criteria specified in Schedule 3.		Not Applicable	
16	Based on the outcomes of the assessment the <b>DECC</b> shall provide advice to the <b>Minister</b> on whether the areas should be included within the <b>certified areas</b> or the <b>noncertified areas</b> shown on the <b>biodiversity certification maps</b> .		Not Applicable	
Addi	tional conservation actions within the Growth Centres –			
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:		Not Applicable	
	Species  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			

Releva	ant Biodiversity Measure	Vineyard Precinct - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Stage 1 Justification
	<ul> <li>if the species is present, provide for the protection of the area of suitable habitat for the species to the satisfaction of the DECC.</li> </ul>			
Pimelea spicata	Potential populations at Denham Court Road - as shown in black hatching on the biodiversity certification maps:			
	<ul> <li>survey to confirm the presence of species, and</li> </ul>			
	<ul> <li>if the species is present, provide for the protection of the area of suitable habitat for the species to the satisfaction of the DECC.</li> </ul>			
Persoonia hirsuta	Potential populations at North Kellyville – as shown in black hatching on the biodiversity certification maps:			
	<ul> <li>survey to confirm the presence of the species, and</li> </ul>			
	if the species is present, provide for the <b>protection</b> of the area of suitable habitat for the species to the satisfaction of the <b>DECC</b> .			
Leucopogon fletcheri	Known population at North Kellyville - as shown in black hatching on the biodiversity certification maps:			
	<ul> <li>survey to confirm the extent of the population, and</li> </ul>			

Releva	nt Biodiversity Measure	Vineyard Precinct - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Stage 1 Justification
	<ul> <li>provide for the protection of the population to the satisfaction of the DECC.</li> </ul>			
may decide that it is	Known populations at North Kellyville - 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 population to the satisfaction of the DECC.  In of the above actions the Minister appropriate to amend the boundaries o biodiversity certification, in addition 3.			

	Rel	levant Biodiversity Measure	Vineyard Precinct - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Stage 1 Justification
Addi:		ion actions within the Growth Centres –			
18	plan(s) under the relating to the ar	e the preparation of the relevant precinct e Growth Centres Development Code rea referred to in the table below, the s must be undertaken:		Not Applicable	
	Species Green and Golden Bell Frog	Required action  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.			

	Relevant Biodiversity Measure	Vineyard Precinct - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Stage 1 Justification
	Note: On completion of the above actions the <b>Minister</b> may decide that it is appropriate to amend the boundaries of the area subject to biodiversity certification, in accordance with condition 3.			
	tional conservation actions within the Growth Centres – lopment sites			
19	Within twelve months of the biodiversity certification order taking effect, the <b>DoP</b> (in consultation with the <b>DECCW</b> ) 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:	These provisions will be incorporated into the development control plan.	Yes	These provisions will be incorporated into the development control plan.
	(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.			
Futu	re precinct plans			
35	During the preparation of future precinct plans (excluding any precinct plans already publicly exhibited before this order took effect) the <b>GCC</b> 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 Stage 1 Vineyard Precinct.

	Relevant Biodiversity Measure	Vineyard Precinct - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Stage 1 Justification
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:  (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.	A number of listed species have been previously recorded onsite and have the potential to occur within the Precinct. However, no threatened species where located during the 2014 surveys (ELA 2014).	Yes	The Vineyard Precinct Biodiversity and Riparian Corridors Assessment (ELA 2014) has assessed the potential for threatened species, and determined that there is no new information to provide to OEH (DECC) at this time.  If new information is found doing the development phase, OEH will be notified by the Department of Planning and Environment.
37	Based on the information provided in accordance with condition 36, and any other relevant matters, the <b>DECC</b> shall advise the <b>Minister</b> 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.		Yes	

#### 3. Conclusion

This report has undertaken an assessment of the consistency of the Vineyard Precinct Stage 1, with the biodiversity certification and the applicable relevant biodiversity measures.

It is concluded that the Vineyard Precinct Stage 1 area is consistent with the biodiversity certification of the Growth Centres SEPP, as follows:

- The staged Precinct Plan will protect 16.1 Ha of field validated ENV and will count towards the 2000 Ha target, in accordance with RBM6.
   This is 2.1 Ha less than the 18.2 Ha target identified for the Precinct in the Draft Conservation Plan.
- The loss and fragmentation of 1.7 Ha of validated non-certified ENV is due to required infrastructure along Bandon Road (widening) and areas of SP2 and RE1. A further 3.1 ha was lost to validation of ENV boundaries. These losses have been offset by the retention of an additional 2.7 Ha of field validated certified ENV within RE1 zoning. The remainder deficit of 2.1 Ha will be made up in Vineyard Stage 2 or elsewhere in the Growth Centres.
- The 16.1 Ha of ENV will be protected via the E2, SP2 and RE1 Zones as described below (Annex B and C).
- The SEPP amendment will provide a clause that prevents the **clearing** of ENV (and areas of AHCVV) in certain areas (principally in the non-certified land) as shown on the Native Vegetation Protection Map (**Annex C**).

Land use zones have been selected based on advice from OEH in relation to appropriate zoning of land containing ENV, and with consideration of other land use planning factors, including the future ownership, acquisition and use of land in accordance with the Precinct Plan and the EP&A Act. In accordance with the hierarchy of land use zones preferred by OEH, land use zones have been applied to ENV that is proposed to be protected as follows:

All ENV to be protected will be located on land to be zoned SP2, E2 or RE1. Land proposed to be zoned SP2 and RE1 will be acquired by a public authority.

## Proposed biodiversity certification map

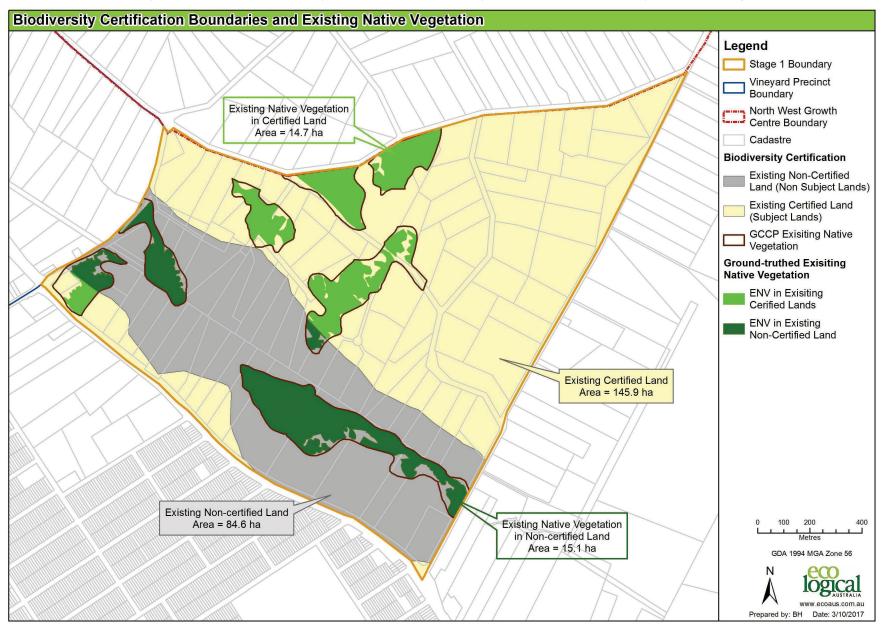
To reflect the outcomes of the Precinct Plan and ensure the protection of ENV, amendments are proposed to the boundaries of certified and non-certified land as shown on the biodiversity certification map (referred to as the subject lands map) (see Annex D). The new boundaries of the non-certified lands are proposed to reflect the boundaries of the:

- protected ENV (as mapped as 'Existing Native Vegetation' on the Native Vegetation Protection Map see Annex C) and Native Vegetation Retention areas on the NVP Map, excluding the area of ENV conserved under a separate conservation covenant.
- · Development areas and essential infrastructure

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Vineyard Precinct Stage 1	

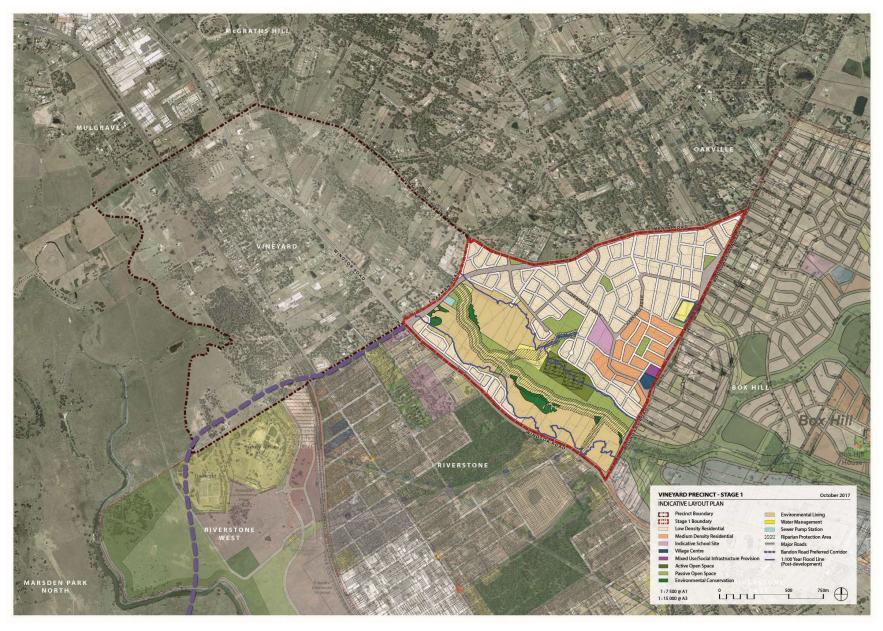
# Annex A

Biodiversity Certification Map for Vineyard Precinct Stage 1 (including field validation results)



Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Vineyard Precinct Stage 1
Annex E Proposed Indicative Layout Plan for Vineyard Precinct Stage 1

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Vineyard Precinct Stage 1



#### Annex C

Proposed Protection Measures for Vineyard Precinct Stage 1 (including Native Vegetation Protection Map and Zoning Plan)

# Calculations of ENV within the Vineyards Precinct Stage 1

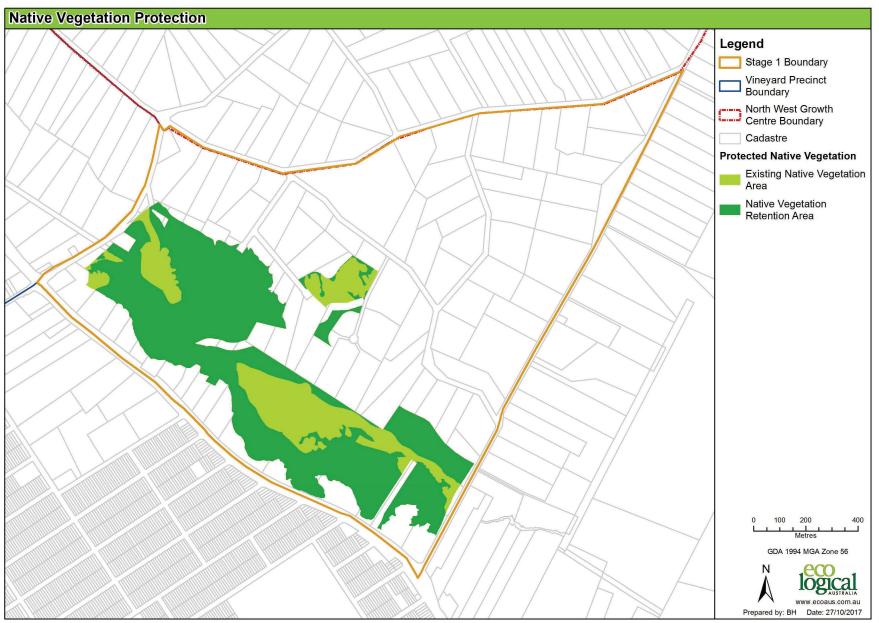
#### Results of field validation for Existing Native Vegetation & AHCVV

Reference	ltem	Stage 1 Area (ha)
А	Area of mapped ENV in non-certified areas (as per Conservation Plan)	18.2
В	Area of validated ENV in non-certified areas	15.1
С	Area of validated ENV in certified areas	14.7
D	Total area of validated ENV in the Stage 1	29.8
Е	Total area of validated AHCVV in Stage 1	18.8

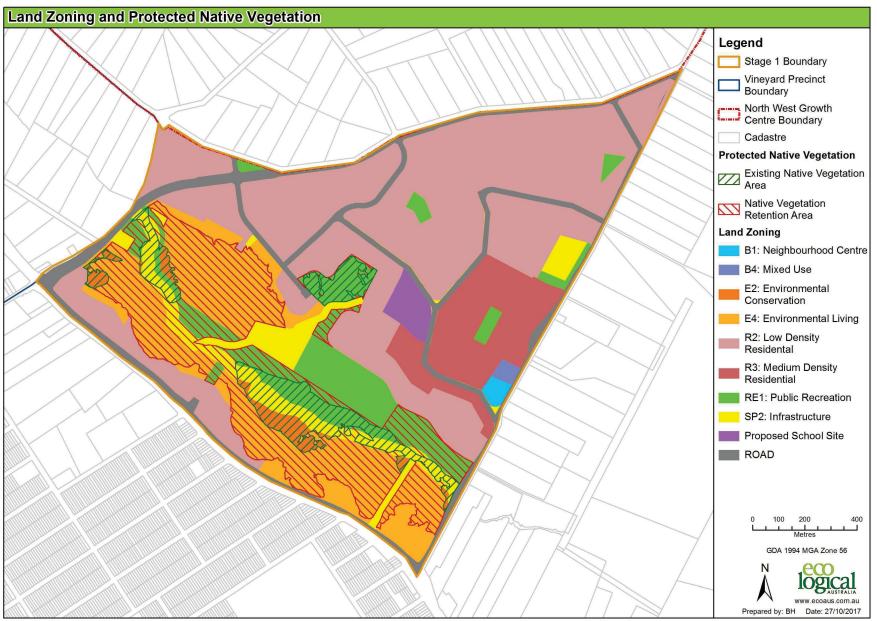
#### Summary of impacts, offsets and areas of ENV to be protected

Reference	ltem	Stage 1 Area (ha)
А	Area of mapped ENV in non-certified areas (as per Conservation Plan)	18.2
В	Area of validated ENV in non-certified areas	15.1
С	Impacts: Validated non-certified ENV to be cleared (area to become certified)	1.7
D	Offsets: Validated certified ENV to be used as offset (area to become non-certified)	2.7
E	Total area of ENV to be protected in non-certified areas (E = B-C+D)	16.1
F	Area of additional high conservation value vegetation (AHCVV) to be protected	1.1
Н	Total area of ENV/AHCVV to be protected (H = F+E)	17.2

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Vineyard Precinct Stage 1



Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Vineyard Precinct Stage 1



Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Vineyard Precinct Stage 1			
Annex D			
Proposed Amendments to Biodiversity Certification Map			

# Comparison of existing and proposed certified/non-certified land

The following table outlines the current and proposed certified and non-certified areas.

>and Type	Stage 1 Current Area (Ha)	Stage 1 proposed Area (Ha)
Certified >and	145.8	166. <del>j</del>
Non Certified >and	84.c	6и.1

