

**THREATENED SPECIES CONSERVATION ACT 1995**

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

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

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

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

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

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

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

A handwritten signature in black ink, appearing to read 'Verity Firth', is positioned in the lower right quadrant of the page.

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

Signed at Sydney, this 11<sup>th</sup> day of December 2007.

## **SCHEDULE 1 – CONDITIONS OF BIODIVERSITY CERTIFICATION**

### **Definitions**

In Schedules 1 to 4:

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

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

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

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

Explanatory notes

A. Nothing in this biodiversity certification order:

i. restricts any future decisions that may be made by the Minister under Part 7, Division 5 of the Act,

ii. removes, alters or over-rides any requirement to obtain any necessary approvals under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

B. In accordance with section 126K of the Act, following any review of the SEPP under the *Environmental Planning and Assessment Act 1979* or any rezoning of land to which the SEPP applies, the Minister is to reassess the grant of biodiversity certification to determine whether it should be maintained or modified.

## General

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

## Areas subject to biodiversity certification

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

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>	<p>Potential populations at Cross Street, Kemps Creek and Thirty-second Avenue, Austral – as shown in black hatching on the biodiversity certification maps:</p> <ul style="list-style-type: none"> <li>• survey to confirm the presence of the species, and</li> </ul>

	<ul style="list-style-type: none"> <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>
<i>Pimelea spicata</i>	<p><u>Potential populations at Denham Court Road</u> - as shown in black hatching on the biodiversity certification maps:</p> <ul style="list-style-type: none"> <li>survey to confirm the presence of species, and</li> <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>
<i>Persoonia hirsuta</i>	<p><u>Potential populations at North Kellyville</u> – as shown in black hatching on the biodiversity certification maps:</p> <ul style="list-style-type: none"> <li>survey to confirm the presence of the species, and</li> <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>
<i>Leucopogon fletcheri</i>	<p><u>Known population at North Kellyville</u> - as shown in black hatching on the biodiversity certification maps:</p> <ul style="list-style-type: none"> <li>survey to confirm the extent of the population, and</li> <li>provide for the protection of the population to the satisfaction of the DECC.</li> </ul>
<i>Darwinia biflora</i> <i>Hibbertia superans</i> <i>Epacris purpurascens</i> <i>var purpurascens</i> <i>Eucalyptus</i> sp “ <i>Cattai</i> ”	<p><u>Known populations at North Kellyville</u> - as shown in black hatching on the biodiversity certification maps:</p> <ul style="list-style-type: none"> <li>survey to confirm the extent of the populations, and</li> <li>provide for the protection of the populations to the satisfaction of the DECC.</li> </ul>

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:

<b>Species</b>	<b>Required action</b>
Green and Golden Bell Frog	<p><u>Potential population at Riverstone</u> - as shown in black hatching on the biodiversity certification maps:</p> <p><b>Option 1</b></p> <ul style="list-style-type: none"> <li>survey to confirm the presence of the species, and</li> <li>if the species is present, provide protection of the area of suitable habitat for the species to the satisfaction of the DECC.</li> </ul> <p><b>Option 2</b></p> <ul style="list-style-type: none"> <li>if the species is present at Riverstone but cannot be adequately protected to the satisfaction of the DECC,</li> </ul>

	<p>then:</p> <ul style="list-style-type: none"> <li>(a) undertake targeted survey to confirm the presence of the species elsewhere in the Growth Centres, and</li> <li>(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.</li> </ul>
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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 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 re-vegetation or restoration works and landscaping in the Growth Centres.

Conservation Fund

20. For the purposes of the conditions of biodiversity certification, references to dollar values are taken to be 2005/2006 values. All values shall be indexed in accordance with the “land index” to be published by the GCC, as detailed in the Special Infrastructure Contribution Practice Note.

21. Over the life of the development of the Growth Centres funding shall be provided to establish a Conservation Fund of at least \$530 million to be used for biodiversity conservation and regional open space purposes. \$397.5 million of the Conservation Fund is planned to be used to acquire lands and/or enter into conservation agreements over lands that are 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 126l of the Act in relation to the certified areas; and
- b. based on the outcomes of that consultation, if the Minister is satisfied that appropriate arrangements have been put in place to rectify the funding shortfall then section 126l shall continue to have effect for the certified areas; or
- c. the Minister shall determine whether to suspend or revoke the biodiversity certification order in accordance with the Act.

28. If no decision has been made in accordance with conditions 27b or 27c within six months of the end of the relevant financial year, then the provisions of section 126l of the Act are taken to no longer have effect in relation to the certified areas, until such time as the outstanding contribution is provided or the Minister is satisfied that appropriate arrangements have been put in place to rectify the funding shortfall. This condition does not affect any consent or approval granted under Part 3A, Part 4 or Part 5 of the *Environmental Planning and Assessment Act 1979* before the condition took effect, or any development or activity carried out in accordance with such a consent or approval.

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

29. Conditions 27 and 28 do not have effect where the annual contribution required under condition 22 has not been provided because the balance of unspent funding being held in the Conservation Fund for the purchase and/or establishment of conservation agreements over lands 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.

### **SCHEDULE 3 – CRITERIA REFERRED TO IN CONDITION 15**

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

Whether the areas:

- a. contain an endangered ecological community as listed under the Act;
- b. are contiguous with the existing native vegetation on the Air Services Australia site;
- c. are equal to or greater than 4 hectares;
- d. have 10% or greater canopy cover;
- e. have 30% or greater vegetation cover within,
  - i. a 0.55 kilometre radius (for local connectivity), and
  - ii. a 1.75 kilometre radius (for regional connectivity),as measured from the approximate centre point of each area;
- f. have a perimeter to area ratio that is conducive to on-going conservation management; and
- g. whether after applying a 50 metre disturbance buffer to the edge of each area (where that edge is likely to be made available for future urban development as identified in the SEPP), the overall size of the area then falls below 4 hectares.

#### **SCHEDULE 4 – INDICATIVE TEN YEAR PAYMENT TIMETABLE**

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

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