

## **Growth Centres Biodiversity Certification**

Assessment of Consistency between the Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

26 October 2009

## 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 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.

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

- *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 Marsden Park Industrial Precinct.**

	Relevant Biodiversity Measure	Marsden Park Industrial Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
<b>General</b>				
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 <b>GCC</b> 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 Marsden Park Industrial Precinct will be publicly exhibited.	Yes	The following information will be publicly exhibited: <ul style="list-style-type: none"> <li>this report in accordance with RBM 35;</li> <li>detailed assessment of the areas adjacent to Shane's Park Air Services Australia site marked in blue hatching on the biodiversity certification maps and Schedule 3 assessment. These assessments are within the Ecological Assessment for the precinct.</li> </ul>
<b>Native vegetation to be retained within the Growth Centres</b>				
6	A minimum of 2,000 hectares of <b>existing native vegetation</b> must be retained and <b>protected</b> within the Growth Centres, either within the <b>certified areas</b> and/or the <b>non-certified areas</b> , subject to conditions 7 to 13 below.	Accepted  ENV within non-certified areas will be retained	Yes	ENV needs to be retained within non-certified areas to maintain parity with the broader 2,000 hectare requirement. Consistent with this requirement 75.04 hectares of ENV as defined in the Order is proposed to be

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

	Relevant Biodiversity Measure	Marsden Park Industrial Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
				<p>retained within non-certified land.</p> <p>The Marsden Park Industrial Precinct Plan, rezoning within the Growth Centres SEPP and DCP contain provisions and zonings to prohibit the clearing of ENV in non-certified areas. These are the principle mechanisms for ensuring consistency with the Biodiversity Order.</p> <p>Non-certified land will be protected through an E2 Environmental Conservation zoning and SP2 Infrastructure zoning under the SEPP and will be maintained under private and public ownership as part of the Riparian Corridor for Bells Creek, the Shane's Park Conservation area and the RTA offset site.</p> <p>Refer to Annex C for a plan of the proposed protection measures.</p>
<b>Retention of existing native vegetation during precinct planning</b>				
7	During the precinct planning process, the <b>GCC</b> may determine to make areas of <b>existing native vegetation</b> within the <b>non-certified areas</b> available for development if the clearance of such vegetation is considered necessary for either the provision of essential	No ENV within non-certified areas will be removed as part of any known proposals for	Yes	All ENV (75.04 hectares) within non-certified areas will be retained and will contribute to the maintenance of biodiversity

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

	Relevant Biodiversity Measure	Marsden Park Industrial Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
	infrastructure and/or to meet the required Development Parameters specified in the Growth Centres Development Code.	essential infrastructure or to meet the Development Parameters.		values within the Precinct.
8	<p>In making a determination under condition 7, the <b>GCC</b> 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 <b>clearing</b> of any <b>existing native vegetation</b> in the <b>non-certified areas</b> will be offset by:</p> <p>(a) the <b>protection</b> of an equal or greater area of <b>existing native vegetation</b> elsewhere in the Growth Centres; and/or</p> <p>(b) the revegetation and/or restoration of an area of land elsewhere in the Growth Centres, subject to satisfying the following,</p> <p>(i) that the clearance of <b>existing native vegetation</b> in the <b>non-certified areas</b> will not affect the capacity to achieve overall improvement or maintenance of biodiversity values for threatened species, populations and ecological communities and their habitats,</p> <p>(ii) the revegetated and/or restored areas will be <b>protected</b>,</p> <p>(iii) the extent of revegetation and/or restoration compared to <b>clearing of existing native vegetation</b> must be undertaken at a ratio of at least 3:1 (to reflect the greater ecological risks relative to retaining <b>existing native vegetation</b>),</p> <p>(iv) areas subject to revegetation and/or restoration must be of a suitable boundary configuration and design to support long-term management,</p> <p>(v) revegetation and/or restoration of the proposed areas would</p>	<p>Accepted</p> <p>No ENV within non-certified areas is planned to be removed. Therefore, no offsets are required in accordance with the Order.</p>	Yes	<p>No offsets are required to supplement losses in non-certified ENV. Significant restoration outcomes have been proposed within the Marsden Park in accordance with the MPIP Ecological Assessment and Vegetation Management Plan (Eco Logical Australia 2009).</p> <p>The total area of ENV to be protected within the Precinct is 75.04 hectares with a further 23 hectares of rehabilitation and protection of existing cleared areas proposed within the non-certified areas of the Precinct.</p> <p>Non-certified ENV and rehabilitated non-certified areas will be retained within land to be zoned for Environmental Conservation purposes and protected by the native vegetation provisions in the Marsden Park Industrial Precinct Plan and DCP which prohibits clearing of ENV within non-certified areas. Protection will also be gained by Blacktown</p>

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

	Relevant Biodiversity Measure	Marsden Park Industrial Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
	<p>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>),</p> <p>(vi) revegetation and/or restoration will be undertaken by suitably qualified and experienced persons using indigenous plant stock, and</p> <p>(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.</p>			<p>City Council's ownership of Bells Creek.</p> <p>Precinct planning for Marsden Park Industrial Precinct is considered to be consistent with this RBM.</p>
9	<p>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 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.</p> <p><b>Note:</b> for example, if 9 hectares of revegetation is undertaken then 3 hectares may be counted.</p>	<p>Accepted.</p> <p>No ENV within non-certified areas is planned to be removed. Therefore, no offsets are required in accordance with the Order.</p>	Yes	No revegetation/restoration required. See RBM 8.
<b>Retention of existing native vegetation shown in areas marked with red hatching</b>				
12	<p>Notwithstanding any other conditions of biodiversity certification, in the lands marked by a red hatching on the <b>biodiversity certification maps existing native vegetation</b> must not be <b>cleared</b> unless it is in accordance with a plan of management or unless such clearance has been agreed to by the <b>DECC</b>.</p>	<p>Accepted.</p> <p>There is no proposed clearing of ENV within the lands marked by red</p>	Yes	The RTA offset lands in the south eastern corner of the Precinct are marked with a red hatching on the biodiversity certification maps. These lands



Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

	Relevant Biodiversity Measure	Marsden Park Industrial Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
		hatching on the biodiversity maps within the Marsden Park Industrial Precinct		are to be zoned for Environmental Conservation, with specific clauses within the SEPP to ensure that any future development on the lands will comply with this condition.
<b>Ground-truthing of existing native vegetation</b>				
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.	Accepted.  Eco Logical Australia conducted ground truthing of vegetation within the Precinct.  It was considered that no changes to ENV designation would be required.	Yes	No proposed changes to the designation of ENV areas.
<b>Additional conservation actions within the Growth Centres – native vegetation</b>				
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 <b>biodiversity certification maps</b> .	Accepted.  Prior to the preparation of the Marsden Park Precinct Plan, Eco Logical Australia carried out further detailed assessment of the areas adjoining or proximate to the Shanes Park Air Services Australia site	Yes	Further detailed assessment is contained within the Marsden Park Industrial Precinct Ecological Assessment (Eco Logical Australia 2009).

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

	Relevant Biodiversity Measure	Marsden Park Industrial Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification				
		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.	Accepted.  The criteria specified in Schedule 3, have been addressed in Appendix H of the Marsden Park Industrial Precinct Ecological Assessment (Eco Logical Australia 2009)	Yes	The areas marked in blue hatching within the Marsden Park Industrial Precinct were specifically assessed in accordance with Schedule 3. The results of the assessment are to be reviewed by DECC during exhibition of the rezoning documentation for the Precinct.				
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>non-certified areas</b> shown on the <b>biodiversity certification maps</b> .	Accepted	Yes	DECC have yet to assess and provide advice with regards to the status of the blue hatched areas regarding their inclusion within the certified or non-certified areas as shown on the biodiversity certification maps.				
<b>Additional conservation actions within the Growth Centres – plants</b>								
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:  <table border="1" data-bbox="320 1177 1064 1340"> <thead> <tr> <th><b>Species</b></th> <th><b>Required action</b></th> </tr> </thead> <tbody> <tr> <td><i>Acacia pubescens</i></td> <td>Potential populations at Cross Street, Kemps Creek and Thirty-second Avenue, Austral – as shown in black hatching on the <b>biodiversity certification maps</b>:</td> </tr> </tbody> </table>	<b>Species</b>	<b>Required action</b>	<i>Acacia pubescens</i>	Potential populations at Cross Street, Kemps Creek and Thirty-second Avenue, Austral – as shown in black hatching on the <b>biodiversity certification maps</b> :	Not Applicable to Marsden Park Industrial Precinct	N/A	
<b>Species</b>	<b>Required action</b>							
<i>Acacia pubescens</i>	Potential populations at Cross Street, Kemps Creek and Thirty-second Avenue, Austral – as shown in black hatching on the <b>biodiversity certification maps</b> :							

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

	Relevant Biodiversity Measure	Marsden Park Industrial Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
	<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 <b>protection</b> of the area of suitable habitat for the species to the satisfaction of the <b>DECC</b>.</li> </ul>			
	<p><i>Pimelea spicata</i></p> <p>Potential populations at Denham Court Road - as shown in black hatching on the <b>biodiversity certification maps</b>:</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 <b>protection</b> of the area of suitable habitat for the species to the satisfaction of the <b>DECC</b>.</li> </ul>			
	<p><i>Persoonia hirsuta</i></p> <p>Potential populations at North Kellyville – as shown in black hatching on the <b>biodiversity certification maps</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 for the <b>protection</b> of the area of suitable habitat for the species to the satisfaction of the <b>DECC</b>.</li> </ul>			

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

	Relevant Biodiversity Measure	Marsden Park Industrial Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
	<p><i>Leucopogon fletcheri</i> Known population at North Kellyville - as shown in black hatching on the <b>biodiversity certification maps</b>:</p> <ul style="list-style-type: none"> <li>• survey to confirm the extent of the population, and</li> <li>• provide for the <b>protection</b> of the population to the satisfaction of the <b>DECC</b>.</li> </ul> <p><i>Darwinia biflora</i> <i>Hibbertia superans</i> Known populations at North Kellyville - as shown in black hatching on the <b>biodiversity certification maps</b>:</p> <ul style="list-style-type: none"> <li>• survey to confirm the extent of the populations, and</li> <li>• provide for the <b>protection</b> of the population to the satisfaction of the <b>DECC</b>.</li> </ul> <p><i>Epacris purpurascens</i> <i>var purpurascens</i> <i>Eucalyptus</i> sp "Cattai"</p> <p>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.</p>			
<b>Additional conservation actions within the Growth Centres – animals</b>				
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:	Not Applicable to Marsden Park Industrial Precinct	N/A	

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

	Relevant Biodiversity Measure	Marsden Park Industrial Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
	<p><b>Species</b></p> <p>Green and Golden Bell Frog</p> <p><b>Required action</b></p> <p>Potential population at Riverstone – as shown in black hatching on the <b>biodiversity certification maps</b>:</p> <p><i>Option 1</i></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 <b>protection</b> of the area of suitable habitat for the species to the satisfaction of the <b>DECC</b>.</li> </ul> <p><i>Option 2</i></p> <ul style="list-style-type: none"> <li>• if the species is present at Riverstone but cannot be adequately <b>protected</b> to the satisfaction of the <b>DECC</b>, then: <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 <b>protection</b> of an area(s) of suitable habitat for the species to the satisfaction of the <b>DECC</b>.</li> </ul> </li> </ul>			
	<p>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.</p>			
<p><b>Additional conservation actions within the Growth Centres – development sites</b></p>				

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

	<b>Relevant Biodiversity Measure</b>	<b>Marsden Park Industrial Precinct - Comment</b>	<b>Consistent with RBMs and Schedule 7 Part 7 of TSC Act</b>	<b>Justification</b>
19	<p>Within twelve months of the biodiversity certification order taking effect, the <b>GCC</b> (in consultation with the <b>DECC</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:</p> <p>(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</p> <p>(b) top soil from development sites that contain known or potential native seed bank.</p> <p>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.</p>	<p>These provisions incorporated into the Marsden Park Industrial Precinct Development Control Plan.</p>	Yes	<p>These provisions incorporated into the Marsden Park Industrial Precinct Development Control Plan.</p> <p>Methodology is provided within the Marsden Park Industrial Precinct Ecological Assessment Report and Vegetation Management Plan (Eco Logical Australia 2009).</p>
<b>Future precinct plans</b>				
35	<p>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.</p>	<p>This assessment of consistency has been prepared to satisfy this RBM. This report will be publicly exhibited with the full precinct planning package.</p>	Yes	<p>This assessment addresses all RBMs applicable to the planning for Marsden Park Industrial precinct.</p>
<b>Future threatened species listings or discoveries</b>				
36	<p>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 <b>Growth Centres Commission</b> must</p>	<p>The MPIP Ecological Assessment, considered all threatened species at the time of the Assessment.</p>	Yes	<p>The MPIP Ecological Assessment, considered all threatened species at the time of the Assessment (including any recordings or listings since</p>

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

	Relevant Biodiversity Measure	Marsden Park Industrial Precinct - Comment	Consistent with RBMs and Schedule 7 Part 7 of TSC Act	Justification
	<p>(as soon as practicable) provide advice to the <b>DECC</b> on whether:</p> <p>(a) the species, population or ecological community is known or likely to be present in the Growth Centres;</p> <p>(b) it was considered during the preparation of the draft Growth Centres Conservation Plan by the <b>GCC</b>; and</p> <p>(c) whether the SEPP, and related measures, provides adequate <b>protection</b> for the species, population or ecological community.</p>			certification).
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.	Accepted	Yes	This is a reporting requirement of the Department of Environment and Climate Change.

### **3. Conclusion**

This report has undertaken an assessment of the consistency of the Marsden Park Industrial precinct planning with the biodiversity certification and the applicable relevant biodiversity measures.

It is concluded that the Marsden Park Industrial precinct planning is consistent with the biodiversity certification of the Growth Centres SEPP, as follows:

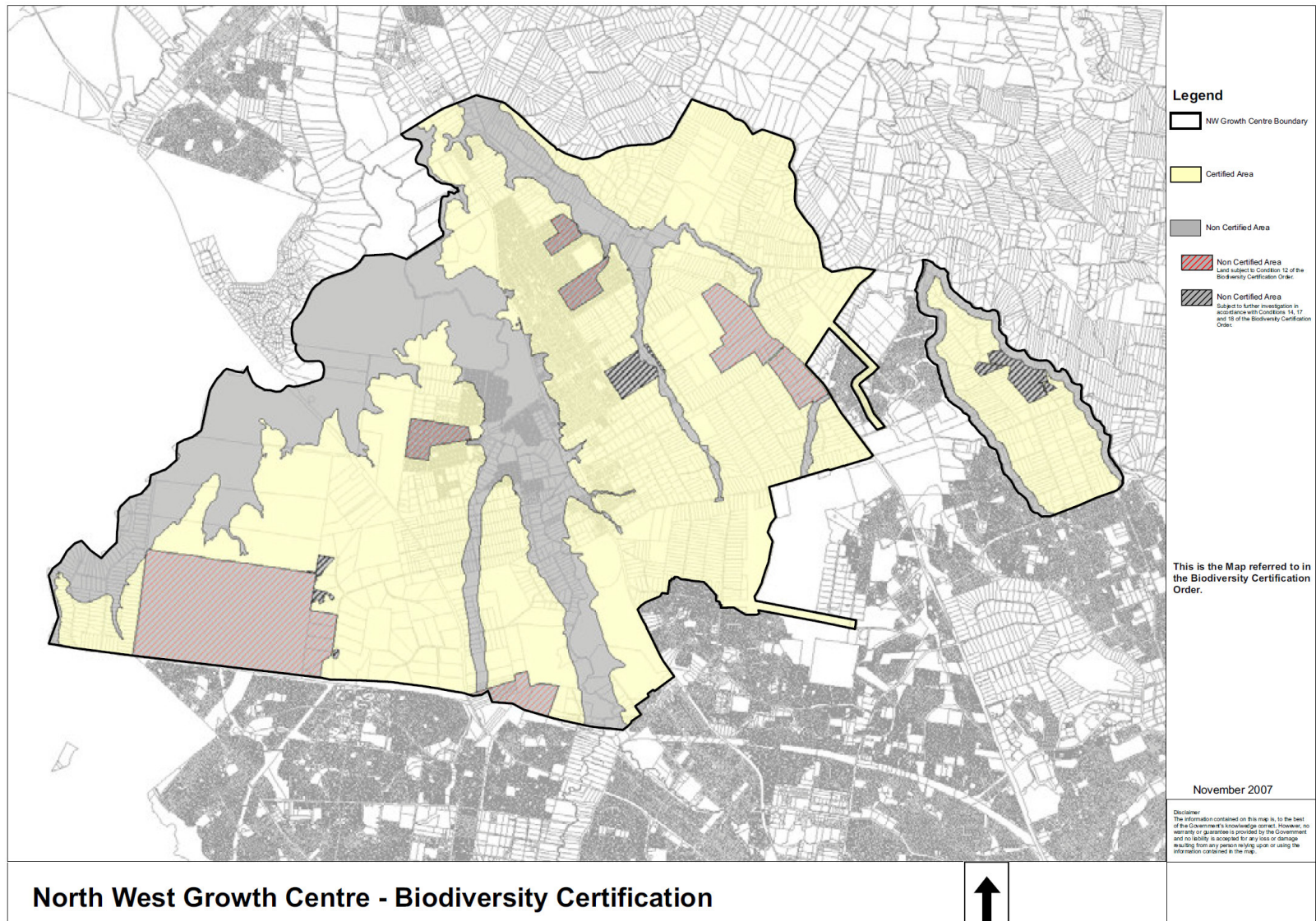
- All areas of existing native vegetation in non-certified areas are being protected in an environmental conservation zone. In the case of the Bells Creek riparian corridor, protection will be afforded through ownership by Blacktown City Council via acquisitions through the section 94 plan.
- Schedule 3 assessment has been carried out for the areas adjacent or in proximity to the Shanes Park Air Services Australia site.
- Appropriate controls for revegetation and restoration works have been included in the DCP e.g. re-use of top soil to protect native seed banks.



**Annex A**

**Biodiversity Certification Map for Marsden Park Industrial Precinct**

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct



**Annex B**

**Proposed Indicative Layout Plan for Marsden Park Industrial Precinct**



**Annex C**

**Proposed Protection Measures Plan for Marsden Park Industrial Precinct**

Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and Marsden Park Industrial Precinct

