



Planning &  
Infrastructure

# Post-Exhibition Planning Report

State Environmental Planning Policy (Sydney Region Growth Centres)

Review of Environment Conservation and  
Public Recreation-Regional Zones

August 2013

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# 1 Introduction

## 1.1 Overview

The key objective for the Growth Centres Biodiversity Certification under the *Threatened Species Conservation Act 1995*, and the Strategic Assessment, under the *Environmental Protection and Biodiversity Conservation Act 1999*, is to protect the highest quality vegetation and natural habitat within the Growth Centres. A number of properties in the Growth Centres have been identified as containing high quality vegetation. The Government has committed to protect these properties using land use zones, including Environmental Conservation (EC) and Public Recreation-Regional (PR-R), under the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP) (See Figures 1 and 2).

However, concern was raised during the public exhibition of the Draft Sydney Growth Centres Strategic Assessment in May 2010, over the differing levels of protection and permissible activities within the EC and PR-R zones. Therefore, in accordance with Commitment 3 of the Strategic Assessment Program (the Program), the Department of Planning and Infrastructure has undertaken a review of the objectives and provisions of the zones and proposed a number of amendments to the permitted uses in each zone to further strengthen the conservation outcomes. These proposed amendments were publicly exhibited as part of the exhibition package for the draft Marsden Park Precinct Plan.

The package of exhibited documents for the proposed amendments included:

- An Explanation of Intended Effect of the proposed amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 to amend the Environment Conservation Zone and the Public Recreation-Regional Zone and insert the Marsden Park Precinct Plan; and
- Explanation of Intended Effect Attachment - Review of Environment Conservation Zone and Public Recreation-Regional Zone.

This report documents the public consultation process, summarises the issues raised both in submissions and during further discussion with State agencies, and reports on how they have been addressed in the final Growth Centres SEPP amendment.

There have been no changes made to the proposed list of permitted uses, development controls and objectives following exhibition.

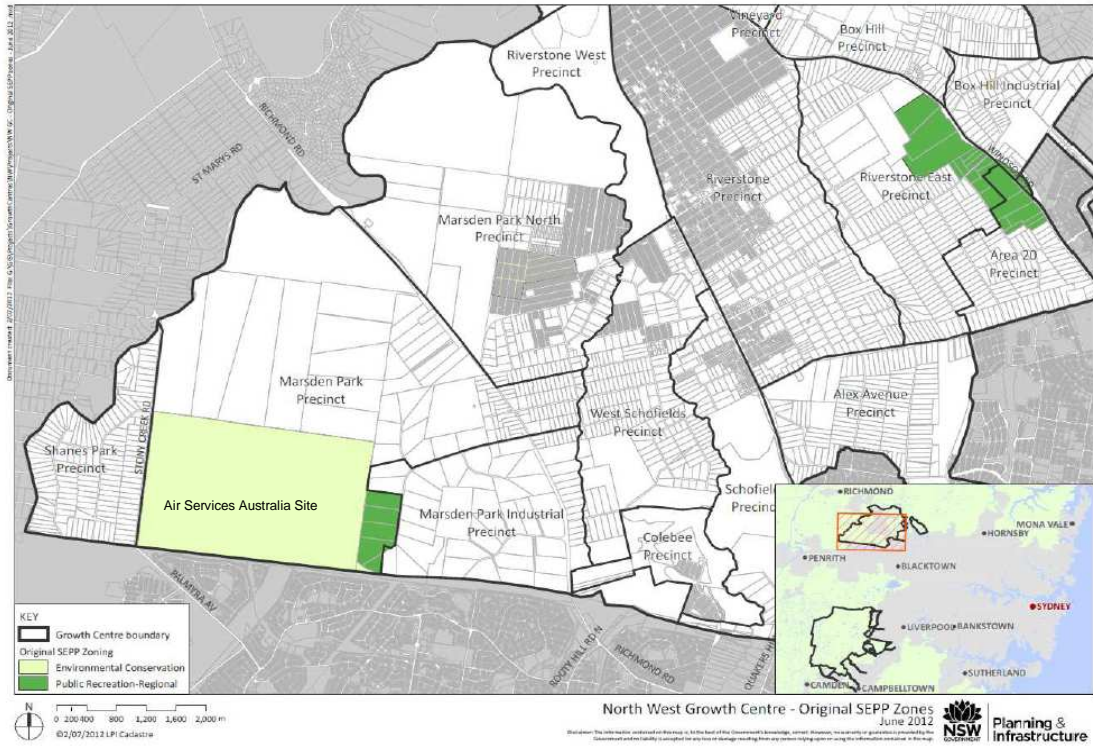


Figure 1 North West Growth Centre - EC and PR-R zoned land

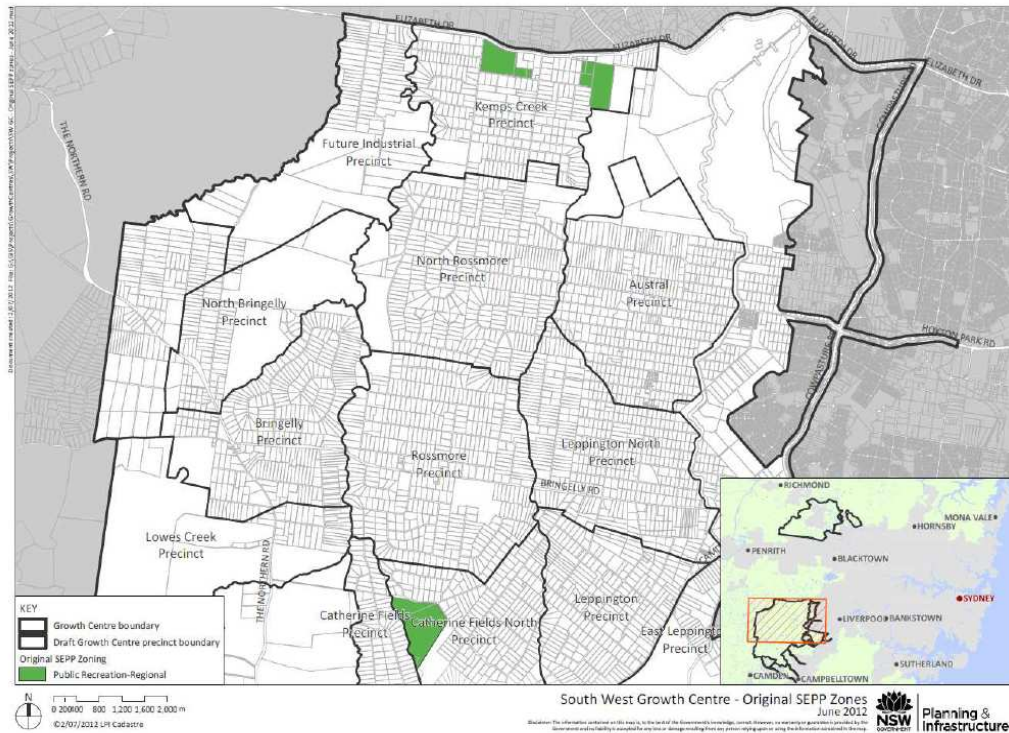


Figure 2 South West Growth Centre - EC and PR-R zoned land

## 1.2 Summary of the changes

The list of permitted uses for the EC and PR-R zones under Part 3 of the Growth Centres SEPP have been amended as follows:

Environment Conservation zone:

- Delete development for advertisements, advertising structures, drainage, earthworks, entertainment facilities, recreation areas or restaurants associated with environmental facilities or recreation areas that seat not more than 50 people, telecommunication facilities, telecommunication networks;
- Amend the wording for 'kiosks associated with environmental facilities or recreation areas' to apply to kiosks that are associated with environmental facilities only.

Public Recreation – Regional zone:

- Delete development for advertisements, advertising structures, drainage, earthworks, entertainment facilities, telecommunication facilities, telecommunication networks.
- Amend the wording for 'kiosks associated with environmental facilities' to refer to the land use term only, that is, 'kiosks'. The scale of this land use will be guided by the objectives for development in the zone as specified in clause 10 of the Growth Centres SEPP.
- Amend the wording for recreation facility to apply to outdoor recreation facilities only.

The proposed amendment also involves adding the following land uses permitted with consent in both EC and PR-R zones:

- 'Environmental facilities' means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.
- 'Information and education facilities' includes a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.
- 'Building identification signs' means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol, but that does not include general advertising of products, goods or services.

There have been no changes to the exhibited list of permitted uses following exhibition. The final amended list is included at **Appendix A** of this report.

There are no changes to the development controls of the objectives of the EC and PR-R zones under the Growth Centres SEPP.

There are no changes to the areas of land zoned EC and PR-R under the Growth Centres SEPP.

## 2. Exhibition details

### 2.1 Exhibited materials

The following documentation was publicly exhibited as part of the Planning Package for the Marsden Park Precinct and refers to the proposed amendments to the list of permitted uses for the EC and PR-R zones under the Growth Centres SEPP:

- An Explanation of Intended Effect of the proposed amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 to amend the Environment Conservation Zone and the Public Recreation-Regional Zone and insert the Marsden Park Precinct Plan; and
- Explanation of Intended Effect Attachment - Review of Environment Conservation Zone and Public Recreation-Regional Zone.

### 2.2 Exhibition period

The draft Planning Package was publicly exhibited for 28 days from 21 November 2012 – 21 December 2012 as part of the package of exhibition documents for the Marsden Park Precinct Plan.

### 2.3 Exhibition venues

The draft Planning Package was available to the public at the following locations:

- Department of Planning and Infrastructure, Level 5, 10 Valentine Avenue, Parramatta
- Department of Planning and Infrastructure, 23 - 33 Bridge Street, Sydney
- Blacktown City Council, 62 Flushcombe Road, Blacktown
- Max Webber Library, corner of Alpha Street and Flushcombe Road, Blacktown
- Growth Centres website, [www.growthcentres.nsw.gov.au](http://www.growthcentres.nsw.gov.au)
- Department of Planning and Infrastructure website, [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

### 2.4 Public notice

Advertisements were placed in the following newspapers:

**Table 1 Public notification**

Media	Appearance Dates	Placement
Rouse Hill Times	21 November 2012	Early General News
Blacktown Sun	20 November 2012	Early General News
Blacktown Advocate	21 November 2012	Early General News

### 2.5 Notification of land owners

The Department of Planning and Infrastructure wrote to 94 landowners within and around the Marsden Park Precinct on 16 November 2012 advising of the public exhibition.

### 2.6 Notification of key stakeholders

The Department of Planning and Infrastructure wrote to 75 other key stakeholders prior to the exhibition on 16 November 2012 advising of the public exhibition. These stakeholders included the



local councils, State government agencies, and environmental and development industry interest groups.

### 3 Submissions summary

#### 3.1 Number of submissions

A large number of submissions were received during the exhibition period, which primarily related to the Marsden Park Precinct Plan. Of the submissions received, a total of 5 referred to the proposal to amend the list of permitted uses in the EC and PR-R zones of the Growth Centres SEPP. Submissions were accepted by mail and email. All submissions are listed and summarised at Appendix B. A summary of submissions is provided at Table 2 Summary of submissions .

**Table 2 Summary of submissions**

Received from	No of submissions
State Government Agencies and Utility Providers	2
Landowners and other community members	3
<b>TOTAL</b>	<b>5</b>

Whilst the formal closing date for submissions was 21 December 2012, the submission from the Office of Environment and Heritage (OEH) was received late and has been considered.

#### 3.2 Response to submissions

Following publication of the amended list of permitted uses for the EC and PR-R zones under the Growth Centres SEPP, further correspondence will be sent to all submitters to advise of the Minister's decision. This report will also be published on the Growth Centres website.

#### 3.3 Issues raised in submissions

The Department reviewed submissions received and considered in detail. Individual submissions are summarised in **Appendix B**.

The key issues include:

- permissible activities in the EC and PR-R zones
- clarifying the definition for '*kiosks associated with environmental facilities*'
- appropriate zoning for land containing high quality vegetation

### 4 Consideration of Issues

This section identifies the issues raised in submissions and also those raised in ongoing discussions with council, State agencies and key stakeholder groups. In responding to the issues raised, the Department has formed a position in the context of State planning policies and guidelines, informed where necessary by additional specialist advice.

**Appendix B** provides a summary of issues raised in individual submissions together with a cross-reference to the relevant section in this report.

There have been no changes made to the list of permitted uses following exhibition. Refer to **Appendix A**.

#### **4.1 Permitted uses in PR-R zone**

OEH does not consider kiosks, public entertainment, recreation areas, and recreational facilities (outdoor) to be compatible land uses to ensure the protection of vegetation in the PR-R zone.

The objectives of the PR-R zone are:

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

As discussed in OEH's submission the areas zoned PR-R are identified with red hatching on the Biodiversity Certification maps and therefore subject to relevant biodiversity measure (RBM) 12. RBM 12 specifies that existing native vegetation must not be cleared unless it is in accordance with a plan of management or agreed to by OEH.

The list of permitted uses has been amended to strengthen the conservation outcomes of the zone. To further restrict the uses permitted in the zone as proposed by OEH would reduce the potential for land to be used as regional open space and recreational purposes in line with the zone objectives.

#### **4.2 Permitted uses in EC zone**

A submission received from the Cumberland Conservation Network recommended that the Air Services Australia Site in the Marsden Park Precinct (see Figure 1), zoned EC, be fenced off from the PR-R zoned land to the east of the site. It is considered that fencing off the EC zoned land would provide a barrier to prevent movement into the conservation area from the recreation area and better protect the high conservation value vegetation contained within the site in accordance with the conservation objectives of the EC Zone.

The ownership of the EC zoned land in the Marsden Park Precinct is intended to be transferred from the Commonwealth Government to the State Government and will be managed by OEH for conservation purposes. OEH will determine whether it is necessary to fence off the site once it is the Government authority for the site.

#### **4.3 Kiosks associated with environmental facilities**

The submission from the Shanes Park Woodland for Nature Reserve Association referred specifically to the EC zoned Air Services Australia Site in the Marsden Park Precinct and requested clarification on the definition of *'kiosks associated with environmental facilities'*. They suggest that kiosks should only be permitted in existing buildings as the creation of new structures would cause unacceptable environmental damage. The Association recommended that the use be amended to *'kiosks associated with environmental facilities (within existing structures)'* and defined as *'retail premises used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like, sited within existing structures'*.

The development of kiosks of a certain scale associated with environmental facilities is considered an appropriate development for the EC zone. As discussed above, RBM 12 of the Biodiversity Certification prevents clearing of existing native vegetation in areas shown with red hatching on the Biodiversity Certification Maps, unless in accordance with a plan of management or agreed to by OEH. These controls are sufficient in preventing clearing of existing native vegetation (ENV) in these areas, without unnecessarily restricting development in areas that do not contain any native vegetation.

Each proposal will be determined on a case by case basis in accordance with the EC zone objectives which aim to prevent any development that could have an adverse effect on the biodiversity values of a conservation area. Therefore any approved proposals would be assessed to ensure that unacceptable environmental damage to an EC zone area would not occur.

#### **4.4 Change of zones of vegetated areas**

OEH acknowledges that the land zoned EC and PR-R will be publicly owned and a plan of management will be prepared to restrict inappropriate development and include objectives for protecting high conservation value vegetation in these areas.

Notwithstanding, OEH recommends that the land zoned PR-R, containing mapped existing native vegetation (ENV), be rezoned to the highest conservation zone applicable. They suggest that a split zone approach could be considered, where recreational uses are permitted on cleared areas and the higher conservation value lands are protected using the EC zone.

Specifically OEH recommends that the areas largely or fully vegetated, including: Kemps Creek West, Catherine Fields and the Marsden Park area adjoining Shanes Park, are rezoned from a PR-R zone to an EC zone to better protect the ENV.

The Department does not consider these zoning changes to be necessary. Council will assess each development application on land zoned PR-R on a case by case basis and consider the potential impact of the development on biodiversity or cultural heritage values. Vegetation development controls outlined in Part 6 of the Growth Centres SEPP apply to all land zoned EC or PR-R. The controls require development consent for the clearing of any native vegetation and specify controls aimed at limiting any clearing in these areas.

The Department considers the current PR-R zoning of the vegetated areas in Kemps Creek West, Catherine Fields and the area in the Marsden Park Precinct (east of Shanes Park) is appropriate. The zoning allows the opportunity for cleared areas to be used for public recreation purposes while maintaining the conservation outcomes of the Biodiversity Certification and Strategic Assessment. The areas of mapped ENV in the PR-R zones are on lands subject to RBM 12 of the Biodiversity Certification and can only be cleared if in accordance with a plan of management or as agreed by OEH. This is considered sufficient to protect areas of ENV in this zone.

#### **4.5 SEPP instrument changes**

The exhibition package included a plain-English Explanation of Intended Effect (EIE) of the proposed amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 to amend the Environment Conservation Zone and the Public Recreation-Regional Zone under Part 3 and insert the Marsden Park Precinct Plan in the appendix. There were no changes made to the EIE following exhibition.

#### **4.6 Commonwealth endorsement**

The Commonwealth Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) reviewed the amendment and endorsed the proposed changes. SEWPAC informed the Department, in an email dated 11 December 2012, that they are satisfied with the proposed amendments to the list of permitted uses for the EC and PR-R zones under the Growth Centres SEPP and agree that these changes strengthen the conservation outcomes of the land to which they apply.

## **5 Consistency with State policies**

### **5.1 Growth Centres Structure Plan**

The proposed amendments are consistent with the Growth Centres Structure Plan. The Structure Plan is an indicative regional land use plan used to guide Precinct Planning. The Structure Plan identifies areas within the Growth Centres for open space and conservation purposes, as well as transitional lands. These areas are consistent with the EC and PR-R zoned lands under the Growth Centres SEPP.

The review of zones is a commitment of the Strategic Assessment Program, which facilitates development in the Growth Centres, consistent with the Structure Plan.

## 5.2 Growth Centres Development Code

The Growth Centres Development Code is a guide to the preparation of the Precinct Plans. The Development Code provides for consistent standards of development across the Growth Centres. The proposed amendments will not impact on the Development Code.

## 5.3 Other Relevant SEPPs

**Table 5-1 Consistency with Other SEPPs**

Relevant Plan	Consistency
Draft SEPP 66 – Integrating Land Use and Transport	The proposed amendments to the EC and PR-R zones under the Growth Centres SEPP relate to the list of permitted uses only.  This will have no impact on these SEPPs, and therefore the amendments are considered to be consistent.
SEPP 55 – Remediation	
SEPP 11 – Traffic Generating Development	
SEPP 19 – Bushland in Urban Areas	

## 5.4 Section 117(2) Directions

A SEPP is not required to conform to s117(2) Directions, which are issued by the Minister under the *Environmental Planning and Assessment Act 1979*, as policy guidance for Local Environmental Plans (LEPs). However the SEPP has been assessed for consistency with the s117(2) Directions (as issued after 1 July 2009), and the amendments are found to be consistent.

# Appendix A | Final List of Land Uses in the Environment Conservation and Public Recreation – Regional Zones of the Growth Centres SEPP

## Environment Conservation Zone

- (1) **Permitted without consent**  
Development permitted by or under the [National Parks and Wildlife Act 1974](#) (but only if the land is reserved under that Act); development for the purpose of eradicating noxious weeds in accordance with the [Noxious Weeds Act 1993](#).
- (2) **Permitted with consent**  
Development for building identification signs, environmental facilities, environmental protection works, flood mitigation works, information and education facilities, kiosks associated with environmental facilities, temporary structures.
- (3) **Prohibited**  
Any other development.

## Public Recreation—Regional Zone

- (1) **Permitted without consent**  
Development permitted by or under the [National Parks and Wildlife Act 1974](#) (but only if the land is reserved under that Act); development for the purpose of eradicating noxious weeds in accordance with the [Noxious Weeds Act 1993](#).
- (2) **Permitted with consent**  
Development for building identification signs, environmental facilities, environmental protection works, flood mitigation works, information and education facilities, kiosks, public entertainment, recreation areas, recreation facilities (outdoor), temporary structures.
- (3) **Prohibited**  
Any other development.



# Appendix B | Summary of Submissions