

# **Growth Centres Biodiversity Certification**

Assessment of Consistency between the Relevant Biodiversity Measures of the Biodiversity Certification Order and East Leppington Precinct

22 July 2013

### 1. Introduction

In December 2007 an order conferring biodiversity certification on State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (GC SEPP) was made by the Minister for the Environment under section 126G of the *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.

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.

Following exhibition of the draft East Leppington Precinct Plan in July 2012, it was decided to rezone the southern portion of the Precinct as stage 1 of the rezoning process. This included the land to the south of Camden Valley Way (CVW)/Denham Court Road, within both Camden and Campbelltown Local Government Areas (LGAs). A Biodiversity Certification Consistency Report dated 15<sup>th</sup> February 2013, was prepared for the stage 1 land and approved by the NSW Office of Environment & Heritage (OEH).

Further post-exhibition reporting was to occur as part of the Stage 2 rezoning process for the lands within the Liverpool LGA. Consequently this Biodiversity Certification Consistency Report applies to the land within the Liverpool LGA and is based on an analysis of the draft Indicative Layout Plan (ILP) in Annex B and proposed SEPP Amendment covering this northern part of the precinct.

All calculations of vegetation areas (extents) listed in Table 1 below refer only to the Liverpool part of the precinct. The Camden and Campbelltown parts the subject of the approved Biodiversity Certification Consistency Report are depicted as greyed out in Annex A, C and D.

### **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 groundtruthing 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 Hectares 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 Infrastructure).
- 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.
- 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.

## 2. Assessment

Table 1: Assessment of consistency between the relevant biodiversity measures of the Biodiversity Certification Order and the East Leppington Precinct (Liverpool LGA land).

	Relevant Biodiversity Measure	East Leppington Precinct Liverpool Part - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Justification
Gene	ral			
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 East Leppington Precinct has been publicly exhibited including the Ecological Assessment and the draft SEPP. Re-exhibition is scheduled for the Liverpool part of the precinct.	Yes	The following information was initially publicly exhibited in July 2012:  this report in accordance with RBM 35;  information required by RBM 8;  information required by RBM 13  This report and the information above will continue to be made publicly accessible by the Department of Planning and Infrastructure.
Nativ	e vegetation to be retained within the Growth Centres			
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.	The draft Conservation Plan identifies 5.47Hectares of ENV to be retained across the entire East Leppington Precinct, to maintain parity with the 2,000 hectares requirement. This 5.47Hectares was originally identified in the non-certified land in the Liverpool LGA.	Yes	Campbelltown/Camden  A total of 3.50 hectares of validated ENV has been protected and retained under the East Leppington Campbelltown/Camden part precinct ILP and counted towards the 2000 hectare target (Ecological Biodiversity Consistency Report for Campbelltown/Camden, dated 15 February 2013).  The ILP also protected 0.14 hectares

Relevant Biodiversity Measure	East Leppington Precinct Liverpool Part - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Justification
	A total of 3.64 hectares of ENV and Additional High Conservation Value Vegetation (AHCVV) has been protected by the East Leppington Campbelltown/Camden Part Precinct Plan (published March 2013). The remaining 1.83 hectares of ENV required to be protected within the Precinct to meet the target of 5.47 hectares is addressed in this Consistency report.		of AHCVV within the E2 Environmental Conservation zone adjoining the validated ENV. OEH and the Department will work together to determine how to count this area of vegetation towards the ENV target for the Growth Centres.  In total 3.64 hectares of ENV/AHCVV was therefore protected within the Camden/Campbelltown Part Precinct.  Liverpool Part Precinct A total of 1.66 hectares of ENV and 0.17 hectares of AHCVV (totalling the required 1.83 hectares) will now be protected within the Liverpool Part Precinct.  The protection mechanisms (see Annex C) for the ENV and AHCVV include both the zoning and the vegetation controls in the SEPP which prohibit clearing of ENV as mapped on the Native Vegetation Protection Map. (Refer to Clauses 6.5 and 6.6 of the GC SEPP).  Other areas containing ENV in non certified lands within the Liverpool Part precinct no longer meet the ENV definition under the Certification Order because the area of each remaining patch of vegetation is or will be less than 0.5 hectares in area or is otherwise required for essential infrastructure and cannot be retained.

	Relevant Biodiversity Measure	East Leppington Precinct Liverpool Part - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Justification
				Notwithstanding this, the overall East Leppington precinct will protect a total 5.47 hectares consistent with the precinct target of 5.47 hectares (to maintain parity with the 2000 hectare target).
Rete	ntion of existing native vegetation during precinct planning			
7	During the precinct planning process, the GCC may determine to make areas of existing native vegetation within the non-certified areas available for development if the clearance of such vegetation is considered necessary for either the provision of essential infrastructure and/or to meet the required Development Parameters specified in the Growth Centres Development Code.	The Liverpool Part Precinct includes 3.87 hectares of validated non-certified ENV.	Yes	1.66 hectares of validated ENV in the non-certified area is to be retained.  2.21 hectares of validated non-certified ENV in the Liverpool Part Precinct has been identified for loss and offset through the protection of 3.5 hectares of certified ENV within the Camden/Campbelltown Part Precinct. This loss will provide for the provision of drainage, roads and residential land which are considered to be essential infrastructure and/or meet the required development parameters specified in the Growth Centres Development Code.  Overall, a total of 5.16 hectares of ENV (3.50 hectares in Campbelltown/Camden and 1.66 hectares in Liverpool) will be protected in the precinct.  Field validation of the non-certified ENV that has been identified for removal has found that whilst there is good canopy structure the poor

	Relevant Biodiversity Measure	East Leppington Precinct Liverpool Part - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Justification
				condition of the lower stratums combined with a lack of connectivity results in this vegetation being of lower to moderate quality.
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 <i>Rivers and Foreshores Improvement Act</i>	3.64 hectares of certified ENV/AHCVV will be protected within the Camden/Campbelltown part of the precinct. This will contribute to offsetting the removal of non-certified ENV with the Liverpool part of the precinct and meeting the overall precinct target of 5.47 hectares of protection.	Yes	To maintain parity with the 2000 hectare target a total of 5.47 hectares of ENV must be protected in the East Leppington Precinct.  As identified in item 6 above 1.83 hectares of ENV/AHCVV will be retained across the Liverpool part of the precinct. A further 3.64 hectares of ENV/AHCVV will be protected within the Camden/Campbelltown part of the precinct. A total of 5.47 hectares across the whole precinct will be protected. This comprises 5.16 hectares of ENV and 0.31 hectares of AHCVV.  To date, the majority of the rezoned Growth Centre precinct target for the amount of ENV to be retained to maintain parity with the 2000 hectare requirement.  Consequently, it is considered that precinct planning for the Liverpool part precinct is consistent with this RBM.

	Relevant Biodiversity Measure	East Leppington Precinct Liverpool Part - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Justification
	1948 and Water Management Act 2000),			
	<ul> <li>(vi) revegetation and/or restoration will be undertaken by suitably qualified and experienced persons using indigenous plant stock, and</li> </ul>			
	(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 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.		Not Applicable	
	<b>Note:</b> for example, if 9 hectares of revegetation is undertaken then 3 hectares may be counted.			
Reter	ntion of existing native vegetation shown in areas marked with red ing			
12	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> .		Not Applicable	
Grou	nd-truthing of existing native vegetation			
13	If new information becomes available after the biodiversity certification order took effect that demonstrates that the vegetation within an area does not otherwise meet the definition of <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</b>	Eco Logical Australia conducted ground-truthing of ENV in the Precinct. The calculations of loss and protection within this document (for conditions 7	Yes	Further detailed assessment is contained within the East Leppington Precinct Planning Study – Biodiversity Assessment (Eco Logical Australia, December 2012).

	Rel	evant Biodiversity Measure	East Leppington Precinct Liverpool Part - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Justification
	vegetation shall be co	onsidered.	to 8 and 11) are based on the validated vegetation mapping.		Annex A shows the results of ground-truthing.  A total of 5.78 hectares of non-certified ENV was located within the Liverpool part of the Precinct. Following field validation this was reduced to 3.87 hectares.
	Additional conservation actions within the Growth Centres – native vegetation				
14	the Growth Centres Do assessment must be u to the Shanes Park Air	reparation of the relevant precinct plan(s) under evelopment Code, a further detailed undertaken of the areas adjoining or proximate r Services Australia site marked in blue versity 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	advice to the Minister	es of the assessment the <b>DECC</b> shall provide on whether the areas should be included within the <b>non-certified areas</b> shown on the <b>tion maps</b> .		Not Applicable	
Addit	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:			Not Applicable	
	Species Acacia pubescens	Required action  Potential populations at Cross Street, Kemps Creek and Thirty-second Avenue, Austral – as shown in black hatching on the			

Relo	evant Biodiversity Measure	East Leppington Precinct Liverpool Part - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Justification
	biodiversity certification maps:			
	<ul> <li>survey to confirm the presence of the 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>			
Pimelea spicata	Potential populations at Denham Court Road - as shown in black hatching on the biodiversity certification maps:		Yes	Refer to discussion on the protection of <i>Pimelea spicata</i> in the Biodiversity Consistency Report for Campbelltown/Camden dated 15
	<ul> <li>survey to confirm the presence of species, and</li> </ul>			February 2013.
	<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>		Not applicable	
Persoonia hirsuta	Potential populations at North Kellyville – as shown in black hatching on the <b>biodiversity</b> certification maps:			
	<ul> <li>survey to confirm the presence of the 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>		Not applicable	
Leucopogon fletcheri	Known population at North Kellyville - as shown in black hatching on the <b>biodiversity</b> certification maps:			
	<ul> <li>survey to confirm the extent of the population, and</li> </ul>			
	<ul> <li>provide for the protection of the population to the satisfaction of the</li> </ul>			

	Rele	vant Biodiversity Measure	East Leppington Precinct Liverpool Part - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Justification
	that it is appropriate to a	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.  If the above actions the Minister may decide amend the boundaries of the area subject to in accordance with condition 3.		Not applicable	
Addit	tional conservation action	ons 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:			Not Applicable	

	Relevant Biodiversity Measure		East Leppington Precinct Liverpool Part - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Justification
	Species	Required action			
	Green and Golden Bell Frog	Potential population at Riverstone – as shown in black hatching on the <b>biodiversity certification maps</b> :			
		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			
		<ul> <li>if the species is present at Riverstone but cannot be adequately protected to the satisfaction of the DECC, then:</li> </ul>			
		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 <b>protection</b> of an area(s) of suitable habitat for the species to the satisfaction of the <b>DECC</b> .			
	that it is appropriate	on of the above actions the <b>Minister</b> may decide to amend the boundaries of the area subject to ation, in accordance with condition 3.			
	tional conservation lopment sites	actions within the Growth Centres –			
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		These provisions will be incorporated into the DCP for the precinct	Yes	The DCP provide for additional matters to be taken into consideration when assessing development

	Relevant Biodiversity Measure	East Leppington Precinct Liverpool Part - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Justification
	effect), where practicable, provide for the appropriate re-use of:			applications.
	(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.			
Futur	e precinct plans			
35	During the preparation of future precinct plans (excluding any precinct plans already publicly exhibited before this order took effect) the <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 East Leppington – Liverpool part precinct.
Futur	e 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 <b>Growth Centres Commission</b> must (as soon as practicable) provide advice to the <b>DECC</b> on whether:	Not applicable	Not Applicable	This RBM relates to the broader administration of the certification.
	(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 <b>GCC</b> ; and			
	(c) whether the SEPP, and related measures, provides adequate <b>protection</b> for the species, population or ecological community.			

	Relevant Biodiversity Measure	East Leppington Precinct Liverpool Part - Comment	Consistent with RBMs and Part 7 of Schedule 7 of the TSC Act	Justification
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.	Not applicable	Yes	This RBM related to the broader administration of the certification.

### 3. Conclusion

This report provides an assessment of the consistency of the Liverpool LGA component of the East Leppington Liverpool Part Precinct Plan with the biodiversity certification and the applicable relevant biodiversity measures. The area located to the south of CVW/Denham Court Road, in the Camden and Campbelltown LGAs has been rezoned and was the subject of a separate OEH approved Biodiversity Certification Consistency Report dated 15<sup>th</sup> February, 2013.

It is concluded that the East Leppington – Liverpool Part Precinct Plan is consistent with the biodiversity certification of the Growth Centres SEPP, as follows:

- The draft Conservation Plan (February, 2007) identified 5.47 hectares of ENV to be protected within the entire East Leppington Precinct. All of the identified ENV in the Conservation Plan at that time was located in areas within the Liverpool LGA.
- Following ground-truthing, 3.87 hectares of ENV remained within the non-certified lands within the Liverpool LGA.
- During precinct planning, 2.21 hectares of field validated non-certified ENV was identified to be lost for the purposes of the provision of essential infrastructure and/or to meet the required parameters of the Growth Centres Development Code.
- 3.64 hectares of ENV/AHCVV was identified in the Camden and Campbelltown LGAs and protected (as outlined in the Biodiversity Certification Consistency Report for Campbelltown/Camden Part Precinct dated 15 February 2013).
- Across all three (3) LGAs within the East Leppington Precinct a total of 5.16 hectares of ENV and 0.31 hectares of AHCVV will be protected, meeting the requirements to protect 5.47 hectares.
- Amendments to the certification map are proposed to ensure certification is consistent with the Precinct Plan (see Annex E).

Consequently, the East Leppington – Liverpool Part Precinct will protect 1.83 hectares of field validated ENV/AHCVV. This will be protected through the RE1 public recreation zone, SP2 Drainage zone and vegetation clearing controls in the Growth Centres SEPP. The controls prohibit the clearing of ENV as shown on the Native Vegetation Protection Map (NVP Map).

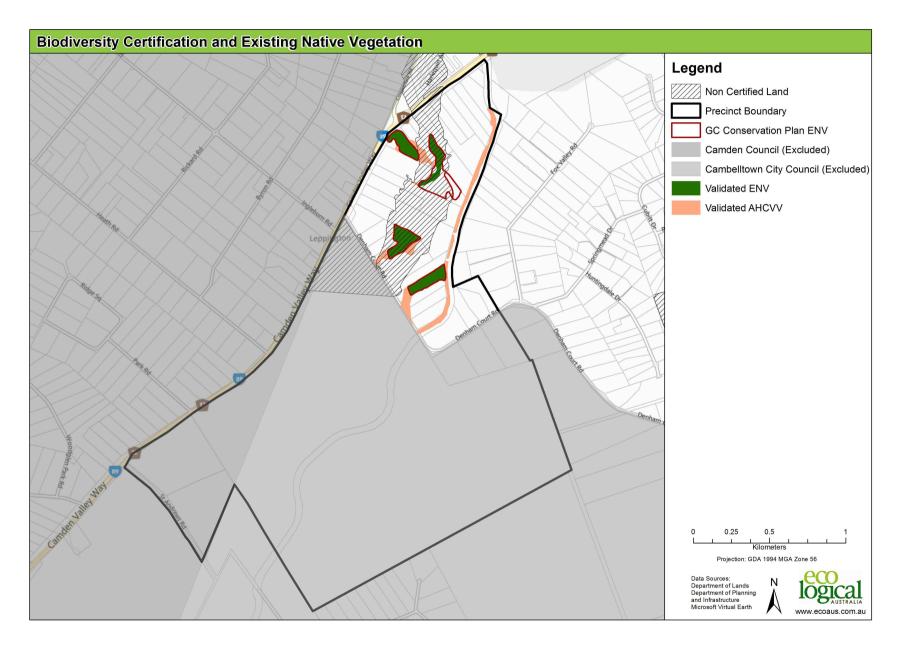
The overall Precinct target of 5.47 hectares of ENV will be satisfied with the additional 1.83 hectares from the Liverpool part contributing to the 3.64 hectares already protected within the Camden/Campbelltown part of the precinct.

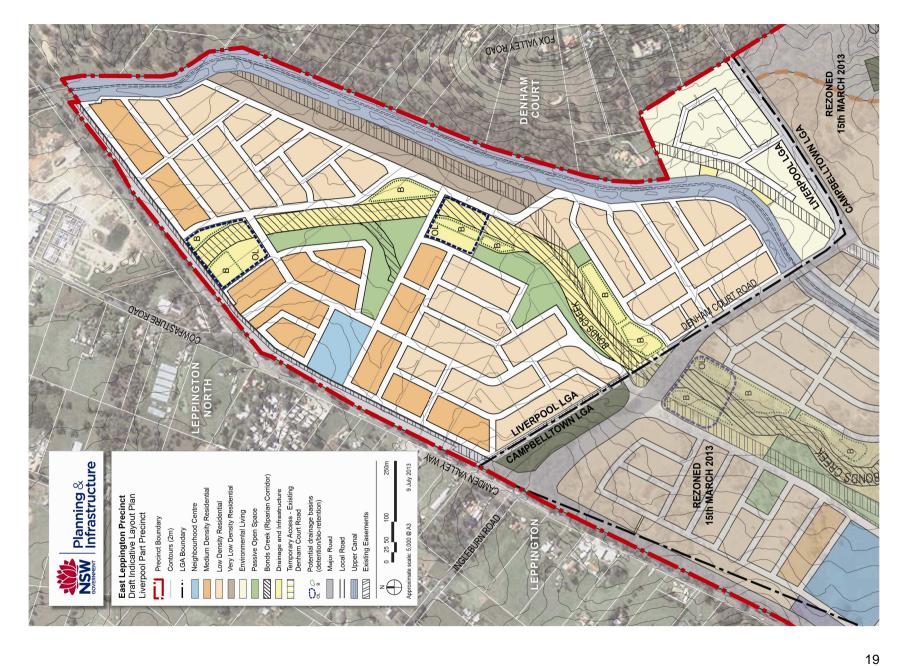
The Growth Centres are on track to achieving the 2000 hectare target of ENV to be retained and protected in the Growth Centres. To date, the majority of the rezoned Growth Centre precincts have met or exceeded the precinct target for the amount of ENV to be retained to maintain parity with the 2000 hectare requirement. It is considered future precincts will continue to aim to protect additional areas of ENV (which are not currently protected) as a result of detailed precinct planning.

Assessment of consistency between Relevant Biodiversity I	Measures of the Biodiversity Certification	Order and East Leppington Precinct
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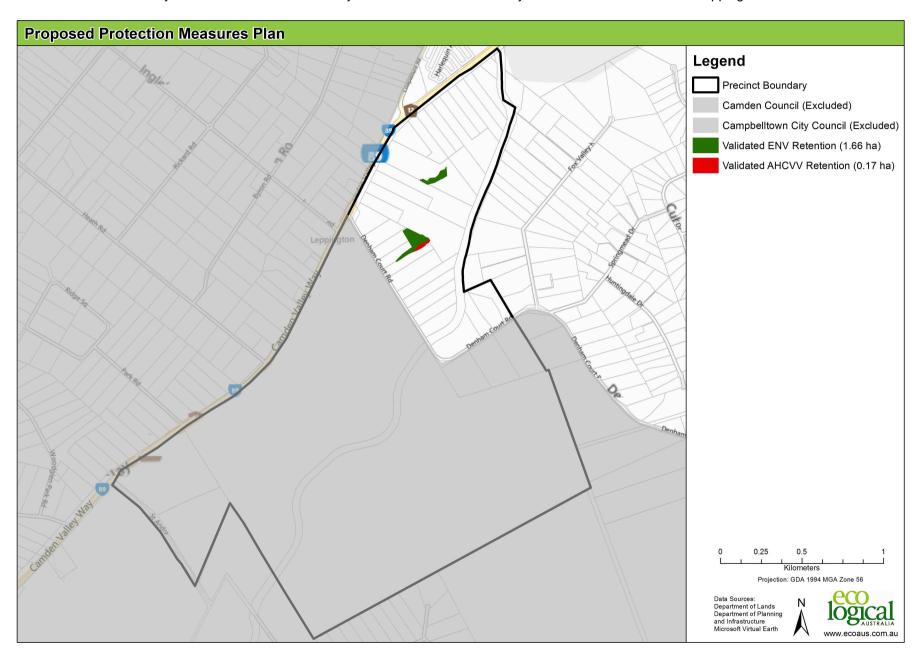
Annex A

**Biodiversity Certification Map for East Leppington Precinct – Liverpool Part** 



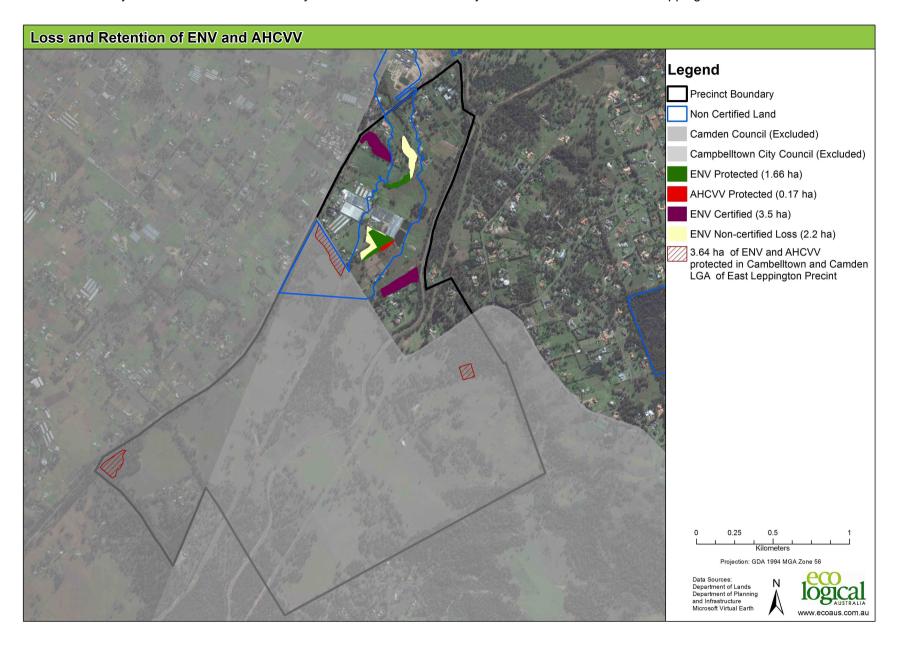


Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and East Leppington Precinct
Annex C
Proposed Protection Measures Plan for East Leppington Precinct – Liverpool Part





Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and East Leppington Precinct	
Annex	D
Proposed ENV to be protected in East Leppington Precinct – Liverpool Pa	rt



Assessment of consistency between Relevant Biodiversity Measures of the Biodiversity Certification Order and East Leppington	Precinct

Annex E

Proposed amendments to biodiversity certification map

