

Explanation of Intended Effect

State Environmental
Planning Policy for Strategic
Conservation Planning

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Introduction

This Explanation of Intended Effect (EIE) has been prepared under section 3.30 of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act). It recommends the creation of a new State Environmental Planning Policy (SEPP) for strategic conservation planning.

In order to support the [Draft Cumberland Plain Conservation Plan \(the Plan\)](#), the Department of Planning, Industry and Environment is seeking submissions on the proposed new SEPP (proposed SEPP) for strategic conservation planning.

The department has also published the [Draft Cumberland Plain Conservation Plan Viewer](#) for public exhibition to support the proposed planning measures and mechanisms described in this EIE.

This EIE is presented in three parts.

Part 1—Background and context

This section provides an overview of:

- the NSW and Commonwealth Government biodiversity approval pathways
- the role of strategic conservation planning in protecting biodiversity
- an overview of the Plan
- how the planning system supports the Plan's delivery.

Part 2—Proposed State Environmental Planning Policy

This section explains policy objectives and planning controls for the proposed SEPP. It describes how the proposed SEPP will work and what it seeks to achieve.

Part 3—Other supporting changes and policies

This section explains the relationship between the proposed SEPP and existing policies. It will also explain any amendments or policy changes needed to support the proposed SEPP's implementation.

Part 1—Background and context

1.1 NSW and Commonwealth Government biodiversity conservation approvals

The *Draft Cumberland Plain Conservation Plan (the Plan)* has been developed to meet requirements for strategic biodiversity certification under the *Biodiversity Conservation Act 2016* (NSW) (BC Act) and strategic assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act).

1.1.1 NSW strategic biodiversity certification

The BC Act was enacted in 2017 following a review of the legislative and policy framework that delivered the conservation of biodiversity and native vegetation management in NSW.

The BC Act offers three pathways through the Biodiversity Offsets Scheme to ensure the impacts on biodiversity can be managed according to the type of development. These are:

- site by site assessment
- standard biodiversity certification (available to both landowners and planning authorities)
- strategic biodiversity certification (available to planning authorities only).

Under Part 8 of the BC Act, biodiversity certification allows a streamlined process of biodiversity assessment for land that is proposed for development. The process identifies areas that can be developed once biodiversity certified, without further need for a site by site assessment or offsetting. Areas can only be biodiversity certified if measures under that certification adequately avoid, minimise and offset the development's impact on biodiversity values. Biodiversity certification is subject to the NSW Minister for Energy and Environment's determination.

Strategic biodiversity certification is only available to planning authorities, as defined in section 8.1 of the BC Act. These include the Minister for Planning and Public Spaces, the Secretary of the department or a local council. Strategic biodiversity certification is designed to support significant regional development and planning, and to provide a mechanism that addresses the potential impacts on biodiversity during strategic land use planning. It encourages planning authorities to avoid and minimise impacts on biodiversity at a landscape scale and helps manage residual impacts through an approved offsetting program.

1.1.2 Strategic assessment under the *Environment Protection and Biodiversity Conservation Act 1999*

Under Part 10 of the EPBC Act, strategic assessments are allowed to consider the significant impacts or likely significant impacts of a policy, plan or program on matters of national environmental significance on a larger scale, rather than through project by project assessment. Similar to strategic biodiversity certification, it is designed to streamline the assessment of the impact of actions on matters of national environmental significance and help address the cumulative impacts at a landscape scale early in the planning process.

Strategic assessment ensures that, by implementing a policy, plan or program, the impact of development actions is avoided, mitigated and offset at a landscape scale.

1.2 The role of strategic conservation planning in protecting biodiversity

Strategic conservation planning involves a landscape-scale approach to assessing and protecting biodiversity when planning large-scale development. Taking a landscape-scale approach enables

decision-makers to identify and protect the most important habitat at a regional scale, to ensure a species' viability and connectivity across the landscape. It identifies areas suitable for development which, if the development is in accordance with a previously approved plan, would not require additional biodiversity approvals.

Strategic conservation planning can help:

- improve ecological resilience and function over the long term
- enhance connectivity through the establishment of new conservation areas
- support unique habitat features for native flora and fauna
- provide the local community with accessible green and open spaces
- streamline the delivery of housing and transport infrastructure.

The implementation of avoidance and minimisation principles through strategic conservation planning within the NSW planning system will help to avoid development impacts to these lands into the future. It is a critical step in protecting remaining biodiversity and reducing the cumulative impacts of proposed development on the natural environment.

1.3 The *Draft Cumberland Plain Conservation Plan*

The Plan will identify how biodiversity impacts from development in Western Sydney will be addressed to provide for growth while also ensuring the long-term protection of biodiversity. The Plan's vision is to 'support Western Sydney's biodiversity and growth'. This means it will support the delivery of infrastructure, housing and jobs for Western Sydney in a planned and strategic way that protects and maintains important biodiversity, including threatened flora and fauna.

The Plan Area covers 198,789 hectares, including a significant portion of the vast Cumberland Interim Biogeographic Regionalisation for Australia (IBRA) subregion, and some minor areas of the Sydney Cataract and Wollemi IBRA subregions. The area includes parts of the following eight local government areas: Blacktown City, Camden, Campbelltown City, Fairfield City, Hawkesbury City, Liverpool City, Penrith City and Wollondilly Shire.

The department has nominated four areas for strategic conservation planning in Western Sydney. These nominated areas are:

- Greater Macarthur Growth Area
- Greater Penrith to Eastern Creek Investigation Area
- Western Sydney Aerotropolis
- Wilton Growth Area.

The Plan's conservation program will offset development impacts on biodiversity and help to protect biodiversity over the life of the Plan to 2056. The conservation program outlines the commitments and actions that will help establish new reserves, biodiversity stewardship sites and ecological restoration to support the creation of new conservation corridors in Western Sydney.

The Plan commits to securing at least 5,475 hectares of native vegetation in the Cumberland subregion to conserve biodiversity values. This presents an opportunity to make Western Sydney more liveable, both by fostering greater urban tree canopy and by creating greener public spaces in critical areas, which will take into account existing urban biodiversity.

1.4 Role of the NSW planning system in delivering the *Draft Cumberland Plain Conservation Plan*

1.4.1 Supporting avoidance in the nominated areas

[The Plan](#) commits to preventing impact on at least 3,670 hectares of native vegetation in the Western Sydney nominated areas, ensured through the strategic planning of future urban capable land¹.

Avoiding impacts to biodiversity is the first step in minimising impacts from development and is required under NSW and Commonwealth Government biodiversity frameworks. 'Avoided land' within the nominated areas includes land identified as non-certified because it has:

- areas of high-value biodiversity, which are avoided for biodiversity purposes in the Plan
- riparian corridors and steep slopes, which are avoided for other purposes in the Plan.

Avoided land will not be biodiversity certified for development. The department developed strategic avoidance criteria, consistent with the [NSW Biodiversity Assessment Method](#), to help identify urban capable lands while avoiding land with high-value biodiversity.

Land that is identified for development in the Western Sydney nominated areas under the Plan is proposed to have biodiversity certification under the BC Act to facilitate development in those areas.

Several planning controls will provide for the ongoing protection of biodiversity values on avoided land, as identified by the Plan. These are:

- requirements to ensure that certified—urban capable land in precinct plans covered by biodiversity approvals are consistent with the areas of biodiversity certified land
- the application of environmental conservation (E2) zoning to protect avoided land, including land with high-value biodiversity, riparian corridors and steep slopes
- requirements to ensure that asset protection zones are located wholly within urban capable land
- a Ministerial Direction under section 9.1 of the EP&A Act to protect avoided land.

The proposed environmental conservation (E2) zoning will not apply to land owned by Local Aboriginal Land Councils (LALCs) or under claim by LALCs. LALC owned land and land under claim represents 90 hectares of 4,795 hectares of avoided land.

1.4.2 Protecting biodiversity across the Plan Area

[The Plan](#) also commits to introducing planning controls across the Plan Area to minimise impacts on areas that have high biodiversity value and that provide the best opportunities to deliver biodiversity outcomes and support the Cumberland subregion's ecological function.

This includes areas with important connectivity or the potential for ecological restoration, and which may be suitable as future conservation land on which to protect native biodiversity and habitat value. The Plan identifies these areas as the strategic conservation area and is approximately 28,300 hectares.

To support the protection of these areas, the Plan proposes to introduce:

¹ Urban-capable land refers to the areas within the nominated areas where the NSW Government has streamlined the delivery of priority housing and infrastructure through the biodiversity certification process.

- planning controls on the strategic conservation area that includes matters relating to biodiversity values that the consent or determining authority must consider when assessing development applications
- a Ministerial Direction under section 9.1 of the EP&A Act to protect the strategic conservation area.

The proposed planning controls for the strategic conservation area will not apply to land owned by LALCs or under claim by LALCs. Deerubbin owned land has been excluded from the strategic conservation area at their request. Other LALC owned land and land under claim represents 1,700 hectares of approximately 28,300 hectares of the strategic conservation area.

1.4.3 Securing future conservation land to implement the Plan

[The Plan](#) proposes to introduce legal mechanisms, as required, to support the identification, management and acquisition of sites that have been proposed for future public land conservation (for example public reserves and new or additional national parks) to offset development impacts and help meet the Plan's commitments.

1.4.4 Managing impacts to biodiversity from infrastructure development in the nominated areas

[The Plan](#) proposes guidelines to manage the impacts of infrastructure development on biodiversity matters protected under the BC Act and EPBC Act. These guidelines are designed to ensure that infrastructure, such as water supply systems, electricity generating works or telecommunications facilities, avoids, minimises, mitigates and offsets impacts on biodiversity in the nominated areas, consistent with the conservation outcomes of the Plan.

1.5 Summary of proposed controls

1.5.1 Consistency clause to contain urban development to the certified—urban capable land

[The Plan](#) proposes a requirement to ensure consistency between the urban capable land in precinct plans and the areas of certified—urban capable land identified by the Plan to contain urban development to the biodiversity certified areas and protect avoided land for its important environmental value.

1.5.2 Environmental conservation (E2) zoning for avoided land

Environmental conservation (E2) zones are designed to protect land with important environmental value. Environmental conservation (E2) zones will be applied to areas that are identified in [the Plan](#) as non-certified because they are avoided for biodiversity reasons or avoided for other purposes. Environmental conservation (E2) zones will not be applied to land owned by LALCs or under claim by LALCs.

1.5.3 Planning controls for the strategic conservation area

[The Plan](#) identifies areas across Western Sydney:

- that have strategic biodiversity value and include threatened ecological communities and species
- with important connectivity across the landscape
- with ecological restoration potential.

These areas are identified as the strategic conservation area in the Plan.

The Plan proposes planning controls for the strategic conservation area, except for land owned by LALCs or under claim by LALCs.

The proposed planning controls will include matters relating to biodiversity values for the consent or determining authority, for example councils, to consider when assessing any development applications in the strategic conservation area. The consent or determining authority must also be satisfied that development will avoid or minimise impact on identified strategic biodiversity values.

1.5.4 Section 9.1 Ministerial Direction for land identified under the Plan

The section 9.1 Ministerial Direction will apply when a relevant planning authority prepares a planning proposal for avoided land within the nominated areas or prepares a planning proposal that would result in an intensification of land use in the strategic conservation area.

If the planning proposal is for avoided land, the section 9.1 Ministerial Direction will require a relevant planning authority to ensure the objectives of the E2 zone are met, or consider impacts on strategic biodiversity values if the planning proposal is for the strategic conservation area.

1.5.5 Acquisition clauses to secure suitable conservation lands

To deliver [the Plan](#), the NSW Government proposes to acquire some areas of private land in Western Sydney to create new public reserves or national parks, which are integral to the delivery of the Plan and the character and activity in urban environments. These green and open spaces support sustainability, efficiency and resilience within communities.

Tenure of land across the Plan Area is mostly freehold, meaning land will need to be acquired from private landowners over time. This is subject to available funding and consultation with community and key stakeholders.

Acquisition clauses will be included in the proposed SEPP to support this process over the life of the Plan.

1.5.6 Guidelines for infrastructure development in the nominated areas

The department is proposing to introduce guidelines to manage the impacts of infrastructure development on matters protected under the BC Act and EPBC Act. These guidelines will include:

- requirements for public authorities to notify the department and avoid, minimise, mitigate and offset impacts to biodiversity when undertaking essential infrastructure development on avoided land in the nominated areas or certain land in the Western Sydney Aerotropolis identified under [the Plan](#)
- planning controls for the strategic conservation area that a determining authority must consider for activities assessed under Part 5 of the EP&A Act
- mitigation measures to address indirect and prescribed impacts on biodiversity from infrastructure development in the nominated areas.

Part 2—Proposed State Environmental Planning Policy

The proposed SEPP is being developed as the key statutory mechanism to implement strategic conservation planning and provide certainty that the Plan's commitments and actions to protect, enhance, maintain and restore biodiversity in Western Sydney will be met.

2.1 Objectives of the proposed SEPP

The proposed SEPP's policy objectives are consistent with the BC Act, the EPBC Act, provisions in the EP&A Act, and the Plan's commitments and actions. The proposed SEPP's objectives are to:

- ensure development in the nominated areas is consistent with NSW and Commonwealth Government biodiversity approvals
- facilitate appropriate development on biodiversity certified areas
- identify and protect areas of high-value biodiversity in the nominated areas
- identify areas across the Plan Area that have high-value biodiversity and/or strategic biodiversity values that can support the ecological function of the Cumberland subregion, including threatened ecological communities and species, and areas with important connectivity or ecological restoration potential
- minimise impacts from future development on biodiversity values in areas of high-value biodiversity
- support the acquisition of priority areas of high-value biodiversity in the Cumberland subregion as conservation lands in perpetuity
- minimise impacts to biodiversity values on land secured for conservation from adjoining land uses.

2.2 Planning controls

The proposed SEPP will include:

- a clause that requires consistency between the certified—urban capable land in precinct plans and the areas of biodiversity certified land covered by the biodiversity approvals, to protect avoided land identified in the Plan
- environmental conservation (E2) zoning to protect avoided land
- planning controls designed to minimise impacts to the strategic conservation area, which is identified by the Plan as having strategic biodiversity value, important connectivity or ecological restoration potential
- acquisition clauses that allow the relevant acquisition authority to secure lands suitable for public reserves, such as national parks and local council reserves, subject to funding availability

2.2.1 Consistency clause to contain urban development to the certified—urban capable land

Objective

The objective of this clause is to ensure that urban development in the nominated areas occurs on the certified—urban capable land identified under [the Plan](#), to protect land avoided for its high-value biodiversity.

Identification

The proposed clause will apply to precinct plans prepared in any of the nominated areas, over the life of the Plan. It will require precinct plans to be consistent with the biodiversity approvals under the Plan, and specifically to identify the certified—urban capable land as the biodiversity certified land mapped by the Plan. This provision will prevail over any other Environmental Planning Instrument (EPI) to the extent of inconsistency.

Additional provision for asset protection zones

The proposed SEPP will require that asset protection zones identified in precinct plans in any of the nominated areas are located wholly within the certified—urban capable land, and not in avoided land identified by the Plan.

2.2.2 Environmental conservation (E2) zoning for avoided land

Objective

The objective of environmental conservation (E2) zoning is to protect parts of the nominated areas that have been identified as non-certified because they are avoided for biodiversity purposes or avoided for other purposes.

Avoided land will not be biodiversity certified, will not be zoned for development. Only certain development will be permitted with consent.

Identification

The E2 zone will be applied to lands in the nominated areas that have been identified by [the Plan](#) as being non-certified—avoided for biodiversity purposes, and also to lands identified as non-certified—avoided for other purposes (for example, riparian corridors along creek lines and steep land). These lands are mapped in the [Draft Cumberland Plain Conservation Plan Viewer](#) for public exhibition.

Land avoided for biodiversity purposes includes land with threatened ecological communities listed under Schedule 2 of the BC Act, including regional koala corridors and priority koala habitat.

Where avoided land does not cover an entire land parcel, it is proposed that the land parcel will be split-zoned. In this case, the part identified as avoided land will be zoned as E2, while the remainder of the land parcel will remain in the existing zoning as identified in the relevant EPI.²

Timing of zoning application

The E2 zone will be applied to the avoided land at the time the Plan is approved, to protect biodiversity on avoided land and meet the requirements of avoidance under NSW Government and Commonwealth Government biodiversity laws.

Land use permissibility

The aims of the E2 zone are to:

- protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values
- prevent development that could destroy, damage or otherwise adversely affect those values.

Certain development will be permitted with consent, including environmental protection works and flood mitigation work. These works will need to support environmental management and the objectives of the zone. Further, the consent authority must be satisfied that the development will not impact the area's biodiversity.

² Split-zoning involves rezoning part of a single lot when acknowledging the different development potential of land due to topography, differing environmental values, certain land constraints or different designated future land uses.

No other development will be permitted on avoided land under the proposed SEPP.

In some cases, an E2 zone will already exist under another EPI but its provisions will be inconsistent with the E2 zone proposed under this SEPP. If the land is identified as avoided land, the proposed SEPP will remove some permitted land uses of the existing E2 zone to align the zone with the E2 zone proposed under this SEPP. The Draft Cumberland Plain Conservation Plan Viewer displays:

- existing E2 zones in the Plan Area
- avoided land proposed for E2 zoning under the Plan.

Existing use rights

The EP&A Act includes protections for land uses that were established with appropriate approvals. These protections are known as 'existing use rights'. Existing use rights will apply to avoided land proposed for E2 zoning under the Plan, and will allow existing land uses to continue while preventing any further extension of those same uses.

Additional provisions

Development consent will be required to clear native vegetation on avoided land identified in the Plan. The meaning of native vegetation in the proposed SEPP will be the same as the definition in section 60B of the *Local Land Services Act 2013* (NSW).

Further, a consent authority must not approve the clearing of native vegetation on avoided land unless the consent authority is satisfied that sufficient measures have been, or will be, taken to avoid and minimise any impact to biodiversity, and where possible, protect and enhance the biodiversity value and ecological integrity of the avoided land.

This provision will prevail over any other EPI to the extent of inconsistency.

This proposed provision does not apply to or in respect of action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993*, the *Sydney Water Act 1994* or the *Surveying Act 2002*.

2.2.3 Planning controls for the strategic conservation area

Objective

The objective of this planning control is to minimise impacts from development on areas of regionally significant biodiversity, improve the management of biodiversity and help protect threatened ecological communities and species in these areas. These areas have been identified as the strategic conservation area under [the Plan](#) and include areas with high-value biodiversity, as well as areas with important connectivity or potential for ecological restoration.

The planning controls for the strategic conservation area will:

- require the consideration of biodiversity values
- require the consent authority to be satisfied that development will avoid or minimise or mitigate threatening processes and actions that would impact an area's strategic biodiversity value
- protect and maintain or otherwise improve ecological function.

Identification

The proposed planning controls apply to the land mapped as the strategic conservation area in the Plan. These are areas of value to the Plan based on the assessment of biodiversity impacts on the nominated areas, and the land's suitability and potential for future conservation management.

The strategic conservation area includes:

- remnant native vegetation
- threatened ecological communities and species
- areas with important connectivity across the landscape
- areas that have the potential for ecological restoration
- areas that will enhance connectivity.

It represents areas that contain key plant communities and species habitat important to the Plan's implementation.

Proposed matters for consideration

The proposed SEPP will contain the following matters that a consent authority must consider before granting development consent on the strategic conservation area, including:

- impacts on the biodiversity values of the site, such as:
 - ecological function
 - ecological communities
 - species habitat and population numbers
 - habitat connectivity
 - ecosystem resilience
- whether the development will cause a negative impact on the condition and ecological function of vegetation, or else result in a detrimental change to the distribution of native flora and fauna communities, either on or adjacent to the site
- whether the development will disturb a site's native fauna, cause a loss of habitat, or else impact a threatened species, habitat connectivity or links to wildlife corridors and restoration areas
- whether the development is likely to adversely impact the integrity and resilience of the surface and groundwater (hydrological) environment, or else adversely impact the quality or natural flow of water in a wetland or riparian corridor
- whether the development will result in cumulative impacts to existing biodiversity values, or to the land's potential for ecological restoration, including impacts that fragment, disturb or diminish the land's biodiversity structure, function and ecological composition
- whether sections of the development site need to be avoided for biodiversity purposes, including identified habitat or vegetated areas.

Matters that a consent authority must be satisfied of before granting development consent include:

- development being designed, sited and managed to minimise vegetation clearing, and to avoid adverse impact to high-value vegetation or potential vegetation restoration areas
- that the height, bulk, scale, size and proposed use of the development would not disturb habitat or disrupt the surrounding natural environment
- that any setback, asset protection zones or infrastructure required for the development would not adversely impact the environmental values or result in the removal of vegetation
- that the development has minimised any impact on native species
- that the development has minimised any loss of habitat or potential impact on threatened species, habitat connectivity or links to wildlife corridors and restoration areas.

Additional matters that a consent authority must be satisfied of before granting consent for subdivision include:

- that the subdivision will result in the continued protection and long-term management of the high-value native vegetation
- that the subdivision will not increase the risk impact or disturbance to vegetation, habitat or native species
- that there will be no increased potential for land-use conflict or land-use intensification as a result of the subdivision.

Additional provisions

Approval will be required to clear native vegetation in the strategic conservation area. The meaning of native vegetation in the proposed SEPP will be the same as the definition in section 60B of the *Local Land Services Act 2013* (NSW).

Further, a consent authority must not approve the clearing of native vegetation in the strategic conservation area unless the consent authority is satisfied that sufficient measures have been, or will be, taken to avoid and minimise any impact to biodiversity, and where possible, protect and enhance the biodiversity value and ecological integrity of the strategic conservation area.

Relationship to existing biodiversity provisions and overlays

Some sections of the Plan Area are already subject to biodiversity provisions and overlays, based on the biodiversity provisions in the relevant EPI that already applies to the land. The provisions proposed as part of the Plan are additional to these and relate specifically to the lands' strategic conservation values.

If a land parcel that is subject to planning controls in the proposed SEPP intersects with one or more biodiversity overlays in a relevant EPI, and the development controls of those biodiversity overlays are inconsistent with the proposed SEPP, the development controls of the SEPP will prevail to the extent of that inconsistency.

2.2.4 Acquisition clauses to secure suitable conservation lands

Objective

The Plan's conservation program will offset development impacts on biodiversity and includes the establishment of public reserves such as national parks and local council reserves. The establishment of new reserves or extensions to existing reserves will require the acquisition of land.

The objective of the acquisition clause is to allow the relevant acquisition authority to secure suitable conservation lands as funding becomes available following the Plan's approval.

Description

The Plan will identify priority sites suitable for public conservation land, which could be secured as public reserves, or as new or additional national parks to meet the Plan's commitment to offset development impacts. Other conservation lands will be identified as being more suitable for community- or council-managed reserves, or for biodiversity stewardship agreement sites, which can be on private or public land.

The Plan includes conservation land selection steps to guide the selection of offset sites when establishing reserves and biodiversity stewardship sites and including areas for ecological restoration.

New conservation lands will be established on a voluntary basis, in consultation with landowners. Compulsory acquisition will only be used in limited circumstances in order to acquire land that is critical to creating a proposed conservation reserve when voluntary acquisition has not been

otherwise successful. The department will consult closely with landowners prior to acquiring land to establish national parks and reserves. The proposed SEPP would identify land for acquisition as funding becomes available.

Acquisition of areas that have been identified as suitable for future national parks and reserves will be staged over the life of the Plan, as needed.

Identification

As required under the Plan, and subject to funding, some private land in the Plan Area may be identified for future acquisition. Acquisition clauses will be included in the proposed SEPP and, once it has been funded for acquisition, a map will be created to identify the land.

Sites to be acquired for future reserves under the Plan will be selected based on the conservation land selection steps set out by the Plan, subject to funding availability and following feasibility assessment and consultation with the future land managers such as National Parks and Wildlife Services.

Managing land uses on land that adjoins secured conservation land

Consideration will also be given to the need for an adjoining land clause for land secured for conservation to manage the impact of changing adjoining land uses, such as roads, or high-intensity commercial or industrial development.

The clause will require that where development is proposed on land that adjoins land secured for conservation under the proposed SEPP, the consent authority needs to consider the environmental impacts on the future reserve when determining the development.

Proposed considerations include:

- whether the development is compatible with and does not detract from environmental conservation area values
- any management plans applicable to the future reserves/area
- if the proposed development has been designed and sited to minimise environmental impacts, mitigate risks to biodiversity or limit visual intrusion.

Part 3—Other supporting changes and policies

3.1 Proposed Section 9.1 Ministerial Direction

The department is proposing to make a Ministerial Direction under section 9.1 of the EP&A Act to protect avoided land and the strategic conservation area from rezoning. Specifically, the Ministerial Direction will restrict the ability to rezone avoided land, increase development, or intensify land uses in the strategic conservation area.

The direction will apply to avoided land and the strategic conservation area as mapped in the proposed SEPP.

The Ministerial Direction will require a relevant planning authority to ensure any planning proposals consider the land use objectives that apply to avoided land or, if the proposal is for the strategic conservation area, the matters for consideration in the planning controls that apply to the strategic conservation area.

If a planning proposal relates to land that is both avoided land and within the strategic conservation area, the direction will require the planning proposal authority to ensure the proposal considers the objectives of the planning controls that apply to both the avoided land and the strategic conservation area.

3.2 Proposed guidelines for infrastructure development in the nominated areas

The department is proposing to introduce guidelines to manage the impacts of infrastructure development on matters protected under the BC Act and the EPBC Act.

3.2.1 Planning controls to support essential infrastructure development

The department proposes requirements for public authorities to notify the department, and avoid, minimise, mitigate and offset impacts to biodiversity when undertaking essential infrastructure development on avoided land in the nominated areas and on certain land in the Western Sydney Aerotropolis identified under [the Plan](#). These requirements are described in Appendix A of the Plan.

3.3.2 Planning controls for the strategic conservation area

The department will establish guidelines that will include the planning controls for the strategic conservation area that are described under section 2.2.3, and these will need to be considered by the determining authority for activities assessed under Part 5 of the EP&A Act.

3.3.3 Mitigation measures for indirect and prescribed impacts on biodiversity

The department will establish guidelines that will include the mitigation measures for indirect and prescribed impacts on biodiversity in the nominated areas, and these will need to be considered by the determining authority for activities assessed under Part 5 of the EP&A Act. These mitigation measures are described in Appendix E of [the Plan](#).

Terms and abbreviations used in this document

Please refer to the [Cumberland Plain Conservation Plan Glossary](#) for terms and abbreviations used in this document.