

SC6.20 Planning scheme policy for biodiversity offsets

SC6.20.1 Purpose

The purpose of this planning scheme policy is to:-

- (a) state standards identified in the **Biodiversity, waterways and wetlands overlay code** and **Vegetation management code** relating to biodiversity offsets; and
- (b) identify and provide guidance about information that may be required to support a development application providing a biodiversity offset.

Note—nothing in this planning scheme policy limits Council’s discretion to request other relevant information under the Development Assessment Rules made under section 68(1) of the Act.

SC6.20.2 Application

This planning scheme policy applies to assessable development providing a biodiversity offset for the removal of a native vegetation area.

SC6.20.3 Standards for biodiversity offset outcomes

For the purposes of Acceptable Outcome AO3 of **Table 8.2.3.3.2 (Performance outcomes and acceptable outcomes for assessable development)** in the **Biodiversity, waterways and wetlands overlay code** and Acceptable Outcome AO6.1 and AO7 of **Table 9.4.9.3.1 (Performance outcomes and acceptable outcomes for assessable development)** of the **Vegetation management code**, the following are the standards in the codes for biodiversity offset outcomes:-

Biodiversity offsets generally¹

- (a) A biodiversity offset is:-
 - (i) not to replace or undermine existing environmental principles or regulatory requirements, and is not to be used to facilitate development in areas otherwise identified as being unacceptable through the planning scheme or legislation;
 - (ii) only to be used where it has been demonstrated that clearing cannot practicably be avoided and any impacts are effectively minimised;
 - (iii) to achieve an equivalent environmental outcome at maturity²;
 - (iv) to be provided in a strategically important location, including within an identified state, regional and local biodiversity network;
 - (v) to commence prior to the vegetation clearing and be designed to minimise the time-lag between the impact and the offset reaching maturity;
 - (vi) to provide permanent protection of biodiversity values and additional management actions to improve biodiversity and broader environmental values over the longer term;

¹ The Queensland government *Offsets for Net Gain of Koala Habitat in South East Queensland Policy* sets out the minimum requirements for offsetting the clearing of non-juvenile koala habitat trees. The objective of this State policy is to ensure that where unavoidable impacts and the removal of koala habitat trees occur as a result of development activities, an offset achieving a net gain in koala bushland habitat is established. A koala habitat offset site should be provided in a strategic area located within the local biodiversity/habitat network and is suitable for koala habitat rehabilitation. All proposed koala habitat offset areas should meet the offset criteria as set out in the *Offsets for Net Gain of Koala Habitat in South East Queensland Policy*, and be assessed and approved by the relevant assessment manager. Any koala offset site is protected from future development impacts on habitat by permanently securing the site for conservation purposes and managed in accordance with an approved Koala Offset Area Management Plan. Biodiversity offsets are considered to have achieved an equivalent environmental outcome when:-

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- (a) remnant vegetation status is achieved; and
- (b) the quality of the environmental values are improved through the implementation of management actions which are additional to any existing management actions. In all cases quantifying environmental values are undertaken using an appropriate offset ratio as specified in **Table 9.4.9.3.2 (Biodiversity offset requirements of the Vegetation management code)**.

- (vii) to be subject to binding arrangements that secure the use and management of the site for the conservation of any vegetation and other environmental values that are present for perpetuity; and
- (viii) to be the responsibility of the applicant for the development or the vegetation clearing, including in terms of the payment of all costs associated with securing and managing a biodiversity offset.

Note— the primary purpose of a biodiversity offset is to mitigate development impacts in order to achieve a net environmental benefit and the nature of the offset ratio should have due regard to this outcome. The offset ratio will be determined based on the extent and nature of the values which are to be impacted. For example, if large areas of vegetation are proposed to be cleared, then an area-based approach to the offset ratio will be required in order to achieve the desired net environmental benefit, while a volume based metric is more relevant to the removal of a number of trees. Therefore, the nature of the offset ratio is to be determined on a site by site basis.

Biodiversity offset areas

- (b) A biodiversity offset area is:-
 - (i) to be located on land:-
 - (A) within the boundaries of the Sunshine Coast Council local government area; and
 - (B) which has the same or very similar underlying geology, soils, aspect and drainage to re-establish (offset) the vegetation subject to clearing;
 - (ii) to be located in one of the following areas:-
 - (A) an area within the boundaries of the development site;
 - (B) a core habitat area identified on **Strategic Framework Map SFM5 (Natural Environment Elements)**;
 - (C) an area contiguous with a core habitat area identified on **Strategic Framework Map SFM5**;
 - (D) an area contiguous with a connecting habitat area within a biodiversity linkage identified on **Strategic Framework Map SFM5**;
 - (E) an area identified as a local ecological linkage on a local plan elements figure;
 - (F) an area suitable for koala habitat rehabilitation; and/or
 - (G) an area identified as equivalent pre-cleared regional ecosystem vegetation by the Queensland Government Regional Ecosystem mapping;
 - (iii) not to be located:-
 - (A) on land in which the vegetation is already protected or required to be retained by an existing approval issued under any Act administered by the Federal, State or local government;
 - (B) within or adjacent to an area planned or identified for the provision of infrastructure (e.g. road, rail, power, water, sewerage and water storage) unless it can be demonstrated that the provision of the infrastructure will not impact on the biodiversity offset or its immediate environs;
 - (C) on Land subject to the Extractive Resource Areas Overlay identified on the relevant overlay maps in the planning scheme; and
 - (D) within an unconstrained area suitable for urban development unless the biodiversity offset area provides a reconnection between environmental areas or provides additional buffering to a core habitat area; and
 - (iv) to be capable of being designed and managed so as to:-
 - (A) achieve remnant vegetation status and improve habitat functionality and ecological connectivity; and
 - (B) be delivered in a spatial configuration that minimises edge effects.

Securement of biodiversity offsets

- (c) Securement of a biodiversity offset is to be achieved through one or more of the following legal mechanisms:-
 - (i) an Environmental Covenant;
 - (ii) a nature refuge under the *Nature Conservation Act 1992*;
 - (iii) a reserve for environmental purposes under the *Land Act 1994*;
 - (iv) utilising (by agreement) land held by the Council which forms a part of Council's Ecological Reserve Estate; and
 - (v) utilising (by agreement) land owned by a non-government organisation (NGO) such as the Australian Wildlife Conservancy, Bush Heritage Trust, Australian Koala Foundation, Wildlife Land Fund Ltd for environmental protection which is *managed for* ecological objectives under a conservation covenant made under the *Land Act 1994* or the *Land Title Act 1994* and where a conservation agreement has been entered into with the Council.

Biodiversity offset agreement

- (d) A biodiversity offset agreement is to be entered into between the applicant and the Council for each biodiversity offset, or for all related biodiversity offsets, that:-
- (i) identifies the obligations of the applicant, the Council and any third party;
 - (ii) outlines that the biodiversity offset remains in effect until the biodiversity offset ends under the terms of the biodiversity offset agreement and associated biodiversity offset area management plan;
 - (iii) provides provisions for bringing a biodiversity offset agreement to an end;
 - (iv) provides for the area to be protected in perpetuity consistent with one of the securement mechanisms;
 - (v) provide provisions requiring a financial assurance (e.g. a bond) at the time of entering into the legally binding agreement, particularly where restoration works are undertaken¹; and
 - (vi) includes provisions for transferring a biodiversity offset obligation to a third party.

Management of offset areas and biodiversity offset management plans

- (e) A development application requiring the provision of a biodiversity offset is to demonstrate how the offset will be managed and is to include the following:-
- (i) a biodiversity offset area management plan which conforms to the *South East Queensland Ecological Restoration Framework: Code of Practice, Guideline and Manual*;
 - (ii) the estimated management costs associated with achieving the offset management objectives, actions and outcomes;
 - (iii) the trust account details for the holding of funds for the ongoing management actions for the offset area;
 - (iv) details of the dispersal of funds for ongoing management actions based on the yearly schedule of management actions;
 - (v) the entity responsible for undertaking the management actions and the skills or expertise of the entity responsible for undertaking the management actions;
 - (vi) evidence that the landholder has received legal advice in regards to their obligations under the legally binding securement mechanism; and
 - (vii) details of all maintenance work to be undertaken for a period of 5 years.

Financial contributions in lieu of an on-ground biodiversity offset

- (f) A financial contribution in lieu of providing an on-ground biodiversity offset may be accepted by the Council where an applicant can demonstrate that they are unable to secure a biodiversity offset and they have undertaken extensive investigations seeking to comply with the provisions of this planning scheme policy.
- (g) The amount of any financial contribution will reflect the total cost of:-
- (i) locating and purchasing new offset land or using existing Council owned offset land;
 - (ii) undertaking all revegetation and habitat rehabilitation works associated with the offset requirements; and
 - (iii) undertaking all maintenance works that ensures the biodiversity offset achieves an equivalent environmental outcome at maturity.

Advance biodiversity offsets

- (h) An advance biodiversity offset may be established either by an applicant for a specific project or projects, or by a third party for any development which may require a biodiversity offset at a future date. The advance biodiversity offset may be used as a whole, or in part to provide an offset to meet one or more biodiversity offset requirements.
- (i) The applicant or entity seeking in-principle approval of an advance biodiversity offset should provide Council:-
- (i) the lot and plan numbers for the project or projects where the clearing is proposed;
 - (ii) the biodiversity values located on the land where the clearing is to occur and on the proposed advance biodiversity offset;
 - (iii) the extent of clearing proposed;
 - (iv) the lot and plan numbers for the proposed advance biodiversity offset area;

¹ If all milestones outlined in the Biodiversity Offset Area Management Plan are met then the bond is released. Where poor performance occurs then Council may opt to use the bond to undertake restoration works on the site.

- (v) information on how the advance biodiversity offset generally meets the criteria for biodiversity offsets;
 - (vi) timeframes associated with the advance biodiversity offset; and
 - (vii) details of the legally binding mechanism proposed by the applicant or entity.
- (j) The legally binding mechanism over the advance biodiversity offset should be finalised within four months of in-principle approval by Council. An advance biodiversity offset may be revoked by the applicant or entity prior to the area being used to acquit an offset requirement.
- (k) approval in-principle of an advance biodiversity offset and registration by Council does not provide any indication that a development application lodged at a future stage will be approved.

SC6.20.4 Guidance for the preparation of a biodiversity offset area management plan

- (1) A biodiversity offset area management plan prepared by a competent person is to be submitted for development proposing to provide a biodiversity offset.

Note—for the purposes of this planning scheme policy, a competent person is an appropriately qualified and experienced consultant with tertiary qualifications in environmental science, botany, zoology or another related discipline and with appropriate and proven technical expertise in preparing biodiversity offset management plans for sites within the South East Queensland Bioregion.

- (2) A biodiversity offset area management plan is to include or identify the following:-
- (a) an A3 size map at a scale of no greater than 1:500, including a scale on the plan;
 - (b) the proposed biodiversity offset area with associated Lot on Plan Global Positioning System (GPS) reference points, including any areas subject to specific management actions;
 - (c) the proposed vegetation clearing and the environmental values impacted as determined by an ecological assessment report²;
 - (d) the environmental values of the proposed offset area as determined by the ecological assessment report;
 - (e) the management objectives and outcomes expressed as measurable and achievable criteria for the biodiversity offset area on which the performance of the floristic and structural re-vegetation components can be assessed annually over at least five years;
 - (f) the density and diversity of species reflecting the target regional ecosystem and how this is to be achieved by either planting, natural regeneration from seed stock, or reliance upon natural encroachment into the site;
 - (g) fencing, access limitations, and other restrictions imposed on the use of the offset area;
 - (h) a schedule of management requirements for the first five years (i.e. at least to achieve the management objectives and outcomes described in (e) and (f) above);
 - (i) a six monthly monitoring program with an annual report to be provided to Council for approval;
 - (j) all registered interests including mortgages, leases, subleases, covenants, profit à prendres, easements and building management statements that have been registered on title under the *Land Act 1994* or the *Land Title Act 1994*;
 - (k) management requirements to achieve an area that is weed³ free within two years of the re-vegetation period; and
 - (l) bonding requirements, including:-
 - (i) a total bond amount of 1.5 times the schedule of works estimate of costs (plus GST) for the re-vegetation works, including maintenance for at least five years; and

² Advice about the preparation of ecological assessment reports is contained within the **Planning scheme policy for the Biodiversity, waterways and wetlands overlay code**.

³ Weed includes declared plants under the *Land Protection (Pest and Stock Route Management) Act 2002* and subordinate *Regulation 2003*, and the *draft Sunshine Coast Local Government Area Pest Management Plan 2011-2015* pest species of significance in Group 1, Group 2 and Group 6.

- (ii) triggers for the release of the bond at 10% for each year with the balance in the final year¹.

¹ A bond may only be released provided performance of management objectives and outcomes of a biodiversity offset area management plan have been achieved for that year.