



Biodiversity Offset Policy

Policy No:	6.10
Approved by Council:	November 2023
New Review Date:	November 2027
Minute No:	C344/21-2023
ECM File No:	12.155
Version:	2.1
Responsible Officer:	Manager Environmental Services
Strategic Plan Reference:	3.1 A Council that values and prioritises its natural environment, whilst encouraging investment and economic growth

1. POLICY STATEMENTS

- 1.1 Kingborough Council recognises that 'biodiversity offsets' are an important mechanism to compensate for the loss of biodiversity values where it has been established that all feasible options in the hierarchy of avoid, minimise and mitigate impacts have been exhausted and the impacts will not substantially detract from the conservation status of biodiversity value(s).

2. DEFINITIONS

- 2.1 **"Biodiversity offsets"** mean measures that compensate for the residual adverse impacts of an action on the environment, when alternatives and options to avoid those impacts have been exhausted and it is still considered desirable for other economic, social, or environmental reasons for the action to proceed.
- 2.2 **"High conservation value tree"** means a tree that:
 - 2.2.1 is of a species that is listed in the *Threatened Species Protection Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999* (C'th); and/or provides potential or significant habitat for a threatened species listed in either of those acts and,
 - 2.2.2 is as specified in Table 2.
- 2.3 **"Potential habitat"** means all habitat types within the potential range of a threatened flora or fauna species that are likely to support that species in the short and/or long term. It may not include habitats known to be occupied intermittently. Potential habitat is determined from published and unpublished scientific literature and/or via expert opinion, is agreed by the Threatened Species Section, NRE in consultation with species specialists, and endorsed by the Scientific Advisory Committee under the *Threatened Species Protection Act 1995*.
- 2.4 **"Priority Species"** means a species that is not listed in the *Threatened Species Protection Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) but is considered of conservation significance in the municipal area as determined by the Council. An example of this is candlebark (*Eucalyptus rubida*) which has been found to occur in very restricted pockets of Kingborough.
- 2.5 **"Recipient land"** means the land upon which an offset is implemented.
- 2.6 **"Secure conservation land"** means land that is effectively and permanently managed for conservation under a conservation covenant under the *Nature Conservation Act 2002*, an agreement under Part 5 of the *Land Use Planning and Approvals Act 1993* or transferred to Council or the Crown to be managed for conservation.
- 2.7 **"Significant habitat"** means native vegetation determined from published scientific literature and/or agreed by the Threatened Species Section (NRE) in consultation with species specialists, and/or endorsed by the Threatened Species Scientific Advisory Committee (TSSAC) as habitat within the known range of a threatened or vulnerable flora or fauna species that:
 - 2.7.1 is known to be of high priority for the maintenance of breeding populations throughout the species' range; and/or
 - 2.7.2 if converted to non-native vegetation is considered to result in a long term negative impact on breeding populations of the species.

It may include areas that do not currently support breeding populations of the species but that need to be maintained to ensure the long-term future of the species.

- 2.8 **"Special circumstances"** means particular circumstances associated with the proposed use or development that may justify reduction in biodiversity. Special circumstances are considered to exist if one or more of the following apply:

- 2.8.1 the use or development will result in significant long term social or economic community benefits and there is no feasible alternative location or design;
 - 2.8.2 ongoing management cannot ensure the survival of the biodiversity values on the site and there is little potential for recruitment or for long term persistence irrespective of long-term management;
 - 2.8.3 the extent of proposed removal of the biodiversity values on the site is insignificant relative to the extent of the values elsewhere on site; and/or
 - 2.8.4 the development is located on an existing title for a single dwelling and/or associated outbuilding.
- 2.9 **“Substantially detract from”** means the loss of the biodiversity value has consequences for the conservation status and viability of the value in the vicinity, including direct and indirect impacts on breeding and/or persistence in the landscape. Factors that may be considered include: the quality of the habitat or vegetation; the requirements of the value relative to the scale of the impact; the current conservation status; the presence/absence of the species in an area; the importance of the area for the connectivity; and the extent to which the loss may be offset through improved conservation measures within the immediate range of the affected value.
- 2.10 **“Vicinity”** means the area or region adjacent to or near the biodiversity value and varies depending upon the characteristics and requirements of the value and its range. For example, the forty-spotted pardalote has a limited range and specific habitat requirements. Therefore, what is in the vicinity is relatively localised for this species. Whereas the swift parrot is a migratory species which has a much wider range, breeds in different locations from year to year depending on the flowering of the blue gum and black gum and proximity to potential nesting habitat.

3. OBJECTIVE

- 3.1 The objectives of the Biodiversity Offset Policy are to ensure biodiversity offsets within Kingborough:
- 3.1.1 avoid a net loss in the extent and quality of biodiversity that is securely protected and effectively managed; and,
 - 3.1.2 are implemented in a transparent and consistent manner.

4. SCOPE

- 4.1 This policy applies to all applications assessed under the:
- 4.1.1 Any by-law under the *Local Government Act 1993* regulating the removal of vegetation in the Kingborough municipal area.
 - 4.1.2 Kingborough Planning Scheme 2000, the Kingborough Interim Planning Scheme 2015 or any subsequent planning scheme declared under the *Land Use Planning and Approvals Act 1993* and applicable in the Kingborough municipal area.

5. PROCEDURE (POLICY DETAIL)

- 5.1 Biodiversity offsets are required where there are impacts upon priority biodiversity values including:
- 5.1.1 priority biodiversity values identified in Table 3.
 - 5.1.2 individual trees of high conservation value (as per Table 2).
- 5.2 All offsets must be consistent with this Policy and have regard to:
- 5.2.1 the Guidelines for the Use of Biodiversity Offsets, (Southern Tasmanian Council’s Authority 2013 (referred to as the Regional Offset Guidelines); and

- 5.2.2 the General Offset Principles for offsets under the Resource Management and Planning System (RMPS) (Appendix 4 of the Guidelines for Natural Values Surveys, Natural and Cultural Heritage Division, May 2021) (referred to as the RMPS Offset Principles).
- 5.3 Offsets will only be considered where:
 - 5.3.1 'special circumstances' can be demonstrated;
 - 5.3.2 the loss of the biodiversity value(s) will not substantially detract from its conservation status in the vicinity; and,
 - 5.3.3 the proponent has adequately demonstrated the need for an offset, including that all effort has been made to avoid and minimise impacts on biodiversity values, including alternative locations or designs for the development.
- 5.4 Council will assess each offset proposal on a case-by-case basis in accordance with this Policy, the Regional Offset Guidelines. Council has the discretion to reject a proposal where it has not been demonstrated that the scale, scope and suitability of the offset delivers a new benefit for biodiversity conservation.
- 5.5 This policy should be reviewed within 5 years or following any changes to planning instruments, by-laws, state policies or regional policies relating to offsets, whichever is the sooner.

6. GUIDELINES

- 6.1 A biodiversity offset proposal must include one or more of the offset measures in Table 1 and must include at least one of options (a), (b) or (c).
- 6.2 All offset proposals must be consistent with the replacement ratios in Table 3.
- 6.3 Where demonstrating 'special circumstances' relies upon 'special circumstances (2.8.3)', then the offset must be achieved via option (a) to the extent practicable, with any shortfall in meeting the replacement ratios on-site adequately offset via options (b)-(e).
- 6.4 Where demonstrating 'special circumstances' relies upon 'special circumstances (2.8.4)' and the development is located in the Low Density Residential, Rural Living, Environmental Living, Landscape Conservation, Rural Resource or Rural Zone, then the offset must be achieved via option (a) to the extent practicable, with any shortfall in meeting the replacement ratios on-site adequately offset via options (b)-(e).
- 6.5 A biodiversity offset proposal only involving either option (a), (b) or (c) in isolation may be considered where it can be demonstrated it is consistent with the objectives and provisions of this Policy.
- 6.6 A biodiversity offset proposal involving (a) or (b) may only be considered where:
 - 6.6.1 it is not part an existing natural area reserve managed by Council or part of the Tasmanian Reserve Estate as shown on the LIST.
 - 6.6.2 there are no existing protections from development impacts through a Part 5 Agreement or Conservation Covenant under the Nature Conservation Act 2002.
 - 6.6.3 there are no existing requirements for vegetation to be retained under conditions of a current development application.
 - 6.6.4 there are no previous offset requirements.
- 6.7 A biodiversity offset proposal involving (a), (b), (d) or (e) must be accompanied by an offsetting plan for the 'recipient land' that is consistent with this Policy, outlines the offset options proposed and contains the relevant landowner consents.

- 6.8 As a result of implementing an offsetting plan, the ‘recipient land’ must become ‘secure conservation land’ and demonstrate that the biodiversity value(s) will be maintained and/or restored to improve its condition.
- 6.9 Upon approval of an offsetting plan, the ‘recipient land’ must be subject to a conservation management plan which at a minimum must include a map of the values, baseline condition assessments, management actions and scheduled monitoring. Management actions for the first 5 years of implementing the conservation management plan must be costed and bonded. Ongoing management is the responsibility of the landowner/manager and must be undertaken in accordance with the conservation management plan.
- 6.10 Council has a responsibility to ensure the ‘secure conservation land’ is being monitored and managed in accordance with the offsetting plan and conservation management plan.
- 6.11 All offsets must aim to be like for like and contain equivalent biodiversity values in equal or better condition than those being impacted. Offsets that are not like for like will only be considered where it is demonstrated that it achieves a significantly enhanced conservation outcome that considers ecological viability and condition, size, resilience and integrity, the landscape context, and potential future risks. This may be subject to third party validation by the State, or another peer review body nominated by Council.
- 6.12 Condition of biodiversity value(s) is determined by:
- 6.12.1 the TASVEG VCA Manual: A manual for assessing vegetation condition in Tasmania, Version 2.0, (Michaels et al,2020) for native vegetation communities.
- 6.12.2 published scientific literature and/or agreed by the Threatened Species Section (NRE) in consultation with species specialists, and/or endorsed by the Threatened Species Scientific Advisory Committee (TSSAC), for threatened species habitat.
- 6.13 Financial offsets are only appropriate where:
- 6.13.1 there is no opportunity for a viable on-site or off-site offsets, taking into consideration the size, shape, quality of any potential offset area, or the replacement ratios cannot be fully met on-site or off-site, and a more strategic outcome can be achieved by pooling resources. The appropriateness of a financial offset is determined on merits by Council on a case-by-case basis.
- 6.13.2 the scale of loss is small with regards to the conservation status and specific characteristics of the value(s) being impacted. A small level of loss may be considered significant and inappropriate to offset financially for vegetation communities or threatened species that have a greater risk of extinction in light of specialist advice.
- 6.14 The financial offset must be paid into the Kingborough Environmental Fund in accordance with the Guidelines for Expenditure as published on Kingborough Council’s website.
- 6.15 All expenditure of financial offsets must be in accordance with Councils endorsed Guidelines for Expenditure of the Kingborough Environmental Fund.

Table 1: Offsetting Options

Option	Description
(a) On-site conservation via a conservation covenant under the <i>Nature Conservation Act 2002</i> , an agreement under Part 5 of the <i>Land Use Planning and Approvals Act 1993</i> or transferral to Council or	Covenanting or protecting in perpetuity remaining areas on the subject land.

Option	Description
the Crown to be managed for conservation	
(b) Off-site conservation via a conservation covenant under the <i>Nature Conservation Act 2002</i> , an agreement under Part 5 of the <i>Land Use Planning and Approvals Act 1993</i> or transferral Council or the Crown to be managed for conservation	Covenanted or protecting in perpetuity an area of sufficient size, but off-site.
(c) Financial offsets	Financial offsets ¹ calculated at a rate of: <ul style="list-style-type: none"> • up to \$570 per tree of very high conservation value and up to \$340 for high conservation value as identified in Table 2; or, • \$13,650 per hectare of high and moderate biodiversity values as identified and subject to the replacement ratios in Table 3. These financial offsets are inclusive of a 20% administration fee and are reviewed periodically in conjunction with the policy.
(d) Restoration	Restoration of areas on or off-site with similar values but in poorer condition to improve their condition and increase their long-term viability. Note: For loss assessed under the planning scheme this option must be used in conjunction with offsetting options (a), (b) and/or (c) and is not applicable to areas directly or indirectly impacted by the proposed development.
(e) Revegetation	Revegetation and rehabilitation of degraded areas on or off-site with the aim of restoring values equivalent to those being lost. Note: For loss assessed under the planning scheme this option must be used in conjunction with offsetting options (a), (b) and/or (c) and is not applicable to areas directly or indirectly impacted by the proposed development.
(f) Recovery actions	Implementation of direct and indirect recovery actions, including installation of nest boxes, threat abatement,

¹ Where a tree meets the threshold for a very high or high conservation value tree and the removal of the tree requires a development application, the maximum amount is charged. Where tree removal is exempt from requiring a development application but still otherwise requires Council approval under a covenant on the title, Part 5 Agreement or By-Law, the required offset may be at the lower end of the scale, as these situations generally do not involve new development and the tree removal is necessary to protect and maintain existing development. Flexibility in the offset rates is provided for situations where a tree may technically meet the threshold of a high or very high conservation value tree, but there are characteristics which reduce its conservation value, such as its declining health or poor form. In these situations, a lower offset rate can be considered.

Option	Description
	surveying and mapping of significant values to inform their ongoing strategic management and conservation. Note this option must be used in conjunction with other offsetting options (a), (b) and/or (c).

Table 2: Conservation Value of Individual Trees

Description	Characteristics	Rationale	Conservation Value
<i>Eucalyptus globulus</i> or <i>E. ovata</i>	DBH >70cm	Significant or potential swift parrot foraging habitat	Very high
<i>E. viminalis</i>	DBH >25cm and within or directly adjacent to significant forty-spotted pardalote habitat	Significant forty-spotted pardalote habitat	Very high
Native trees with known or potential nesting hollows	Hollows present; and/or, DBH > 70cm in dry forests or cleared settings; or, DBH >100cm in wet forests	Potential or significant habitat for hollow dependent species	Very high
<i>Eucalyptus globulus</i> or <i>E. ovata</i>	DBH >40cm and <70cm	Potential swift parrot foraging habitat	High
<i>E. viminalis</i> ²	DBH >25cm and: <ul style="list-style-type: none"> • on Bruny Island; or • within 5,000m of significant forty-spotted pardalote habitat or within potential forty-spotted pardalote habitat 	Potential forty-spotted pardalote habitat	High
A species that is listed in the <i>Threatened Species Protection Act 1995</i> or the <i>Environment Protection and Biodiversity Conservation Act 1999 (C'th)</i>	N/A	Listed threatened species	High

² Consistent with the definition of potential habitat, the 5km distance for the potential range of the forty-spotted pardalote is derived from the published literature (FPA, 2022, Threatened fauna species range boundaries and habitat descriptions, v1.29 June 2022; Threatened Species Section (2012), Listing Statement for *Pardalotus quadragintus* (Forty-spotted Pardalote). Department of Primary Industries, Parks, Water and Environment, Tasmania).

Description	Characteristics	Rationale	Conservation Value
Priority species (including <i>Eucalyptus rubida</i>) ³	DBH >25cm	Meets IUCN criteria for endangered within Kingborough	High

Table 3: Biodiversity Values and the Replacement Ratios for Offsets

Value	Definition	Replacement ratio*
Very high priority values	<ul style="list-style-type: none"> • Native vegetation/ecological communities listed as endangered or critically endangered under the <i>Nature Conservation Act 2002</i> or the <i>Environment Protection and Biodiversity Conservation Act 1999</i> • Significant habitat for and/or areas known to contain threatened species listed under the <i>Threatened Species Protection Act 1995</i> or the <i>Environment Protection and Biodiversity Conservation Act 1999</i> that are: <ol style="list-style-type: none"> a) Recognised as endangered or critically endangered; or b) Largely confined in their total distribution to the municipal area; or c) Have most of their range within the municipal area. 	6:1
High priority biodiversity values	<ul style="list-style-type: none"> • Native vegetation communities listed as vulnerable under the <i>Nature Conservation Act 2002</i> and <i>EPBC</i> • Significant habitat for and/or areas known to contain threatened species listed under the <i>Threatened Species Protection Act 1995</i> or the <i>Environment Protection and Biodiversity Conservation Act 1999</i> that are recognised as vulnerable. • Native vegetation communities with a distribution on a bioregional basis having contracted to less than 10% of its former area. • Native vegetation communities with a total area on a bio-regional basis generally being less than 1,000 ha. • Remnants occurring on land systems components which have been more than 90% cleared of their native vegetation. 	5:1

³ In determining whether a species meets the criteria, an assessment by a suitably qualified person against the IUCN criteria as published on their website and consideration by the Planning Authority is required.

Value	Definition	Replacement ratio*
Moderate priority biodiversity values	<ul style="list-style-type: none"> • Significant habitat for and/or areas known to contain threatened species listed under the <i>Threatened Species Protection Act 1995</i> or the <i>Environment Protection and Biodiversity Conservation Act 1999</i> that are: <ul style="list-style-type: none"> (a) Recognised as rare; and (b) Are not specific to the municipal area. • Potential habitat for threatened species listed under the <i>Threatened Species Protection Act 1995</i> or the <i>Environment Protection and Biodiversity Conservation Act 1999</i>. • Native vegetation communities approaching a reduction in areal extent of 70% within a bioregional context. • Other priority species that are not listed but are considered of conservation significance in the municipal area. 	3:1
Low priority biodiversity values	<ul style="list-style-type: none"> • All other native vegetation communities. 	1:1
Individual trees of very high conservation value	As per Table 2	5:1 for replanting
Individual trees of high conservation value	As per Table 2	3:1 for replanting
<p>* When determining whether a proposed offset involving option (a), (b), (c) and/or (d) will achieve a net benefit for conservation and satisfy the required replacement ratios, the condition of the biodiversity value(s) potentially impacted and the condition of any biodiversity value(s) proposed to be protected or enhanced must be considered.</p> <p>* Where values are not like for like, the required replacement ratio may be varied at the discretion of council</p> <p>* Where there is a high risk of failing to avoid a net loss in biodiversity, the required replacement ratio may be increased at the discretion of Council.</p> <p>* Where the area being impacted contains multiple values, or values that are more difficult to offset, the replacement ratio may be increased at the discretion of Council.</p> <p>* Where the 'recipient land' contains additional values to the area being impacted, the offset ratio may be reduced at the discretion of Council.</p>		

7. COMMUNICATION

- 7.1 This policy will be made available to the public on the Council website and at the Customer Services counter.
- 7.2 The following stakeholders have a direct interest in this Policy and should be notified of any amendments through direct communications:
- 7.2.1 Council staff

7.2.2 Department of Natural Resources and Environment

7.2.3 Regular applicants

7.2.4 Ecological consultants.

8. LEGISLATION

8.1 Kingborough Planning Scheme 2000

8.2 Kingborough Interim Planning Scheme 2015 or any subsequent planning scheme declared under the *Land Use Planning and Approvals Act 1993* and applicable in the Kingborough municipal area.

8.3 Any by-law under the *Local Government Act 1993* regulating the removal of vegetation in the Kingborough municipal area

8.4 *Land Use Planning and Approvals Act 1993*

8.5 *Nature Conservation Act 2002*

8.6 *Threatened Species Protection Act 1995*

8.7 *Environment Protection and Biodiversity Conservation Act 1999*

9. RELATED DOCUMENTS

9.1 Southern Tasmanian Council's Authority, 2013, *Guidelines for the Use of Biodiversity Offsets*, Southern Tasmanian Council's Authority, Hobart.

9.2 Michaels, K., Panek, D. and Kitchener, A. Contributing Eds (2020), *TASVEG VCA Manual: A manual for assessing vegetation condition in Tasmania*, Version 2.0. Natural and Cultural Heritage, Department of Primary Industries, Parks, Water and Environment, Hobart.

9.3 Natural and Cultural Heritage Division, 2015, Appendix 4: General Offset Principles for offsets under the Resource Management and Planning System, in *Guidelines for Natural Values Surveys – Terrestrial Development Proposals*. Version 1.2 – May 2021 (minor updates), Department of Primary Industries, Parks, Water and Environment.

9.4 Quinn, L., 2017, *Guidelines for the Expenditure of the Kingborough Environmental Fund*, Version 1, Kingborough Council.

10. AUDIENCE

10.1 Councillors.

10.2 Council staff.

10.3 Applicants.

10.4 Ecological Consultants.

10.5 Tasmanian Planning Commission.

10.6 State and Commonwealth agencies.

10.7 Community.