

<b>Name of Procedure:</b>	<b>Procedure for offsetting biodiversity impacts associated with Part 5 council activities</b>
<b>Procedure Code:</b>	-
<b>Date Adopted:</b>	5 February 2019
<b>Review Date:</b>	5 February 2021
<b>Related Legislation:</b>	<i>Environmental Planning and Assessment Act 1979</i> <i>Biodiversity Conservation Act 2015</i> <i>Local Government Act 1993</i> <i>Local Land Services Act 2013</i>
<b>Associated Policies/ Documents:</b>	MCW AM02 – <i>Vegetation Establishment Policy</i> Great Lakes DCP s4.1
<b>Responsible Branch:</b>	Planning and Environment – Natural Systems

### Procedure Objective

Council shall offset residual biodiversity impacts associated with its activities that are approved under Part 5 of the *Environmental Planning and Assessment Act 1979* in accordance with the details of this procedure and in a manner that is timely, effective, efficient, proportionate, transparent and reasonable.

### Procedure Statement

Council delivers activities that are important public recreational, transport and community assets. In delivering these activities, there is often a need to remove native vegetation and wildlife habitats. Whilst Council activities shall be designed and constructed in accordance with an “*avoid – mitigate – compensate*” hierarchy and be designed to avoid significant and unreasonable impacts on threatened biodiversity, residual impacts associated with clearing native vegetation and wildlife habitat loss and modification has a biodiversity impact and further depletes biological resources.

The MidCoast Council area is recognised for the quality, function and integrity of its natural environment. Natural areas and greenspaces provide for the amenity and recreational opportunities of local residents and visitors and underpins significant components of the regional economy. The community recognises and values the natural environment and this is reflected in *MidCoast 2030: Shared Vision, Shared Responsibility Community Strategic Plan*.

Biodiversity offsetting is a system used to compensate for residual biodiversity impacts associated with development or an activity by restoring, re-creating or enhancing biodiversity at an offset site in a manner that meets or exceeds the losses caused by that activity. That is, the enhancement of biodiversity in offset areas should be equal to or greater than the loss in biodiversity from the impact site. They counterbalance the impacts of any activity. It is important that the offset site is secured in perpetuity.

It is very important that offsetting be considered the final stage in a mitigation hierarchy, whereby predicted biodiversity impacts must first be avoided, minimised and reversed, before any remaining impacts are offset. This mitigation hierarchy serves to meet the policy principle of “*no net loss*” of

biodiversity through development or activity. In order to avoid and minimise biodiversity impacts actions taken may include modifying the proposal to avoid an area of biodiversity value or putting in place measures to prevent offsite impacts. Avoidance and mitigation measures can reduce, and in some cases, remove the need for offsets.

Clearing of native vegetation that has been authorised under a Part 5 approval of the *Environmental Planning and Assessment Act 1979* does not require separate approval under the *Local Land Services Act 2015*. However, if that Part 5 activity is located within a Declared Area of Outstanding Biodiversity Value (AOBV) or causes a significant impact on threatened species or ecological communities, then Council can voluntarily opt in to the Biodiversity Offset Scheme (BOS) of the NSW Government. This procedure is not associated with the BOS and relates to local offsets for activities approved by Council under Part 5 of the EP&A Act 1979.

This procedure does not use BOS processes and instead adopts simple metrics to determine the amount, type and quality of native vegetation and habitat that is likely to be affected by a proposed activity and the type, quantity and nature of the offsets that are required.

In developing this procedure, reference has been given to the OEH principles for the use of biodiversity offsets in NSW.

In the application of this procedure, offsets provided for Council activities shall be used in a manner that add value to or otherwise complements other Council biodiversity programs and initiatives.

The biodiversity impacts of an activity are calculated as:

1. Area (hectares) and type of native vegetation lost, and
2. Number and species of trees to be removed, and
3. Number and size class of tree hollows estimated to be removed.

The biodiversity management actions that form the basis of this procedure include:

1. Replanting of degraded or cleared lands with native plants so as to re-create a functional area of biodiversity over time, and/ or
2. Restoration of degraded areas of habitat through weed control, habitat enhancement or other management interventions to improve the function or condition of or manage threatening processes affecting a bushland habitat, and/ or
3. Acquisition and protection of at risk habitats (regarded as an averted loss biodiversity offset in which measures are taken to prevent ecological degradation from occurring where it is likely to have happened otherwise), and/ or
4. Installation of durable artificial nesting boxes.

As impacts on biodiversity from Council activities are usually permanent, the offset shall also be permanent and secured. Offsets shall be targeted according to the biodiversity priorities in our area. Offsets provided in this scheme must also be beyond existing requirements and not already funded under another scheme. Finally, a level of measurement and auditing over time is required to ensure that offset obligations are being achieved.

All offsetting requirements shall be funded by the relevant Council activity. This is an appropriate use of activity funds to meet address biodiversity impacts of Council activities, meet the communities' expectations in respect of Council biodiversity conservation obligations and address the intent and principles of current State and Commonwealth statutory environmental protection and mitigation measures.

## Strategic Plan Link

This procedure aligns with:

*MidCoast 2030: Shared Vision, Shared Responsibility:*

*We value... our environment*

*We protect, maintain and restore our natural environment*

*MidCoast 2018-2021 Delivery Program & 2018-2019 Operational Plan:*

*Strategy 7.1: Value, protect, monitor and manage the health and diversity of our natural assets, wildlife and ecosystems*

## Procedure Content

The assessment of a Council activity conducted under Part 5 of the *Environmental Planning and Assessment Act 1979* involves the preparation and approval of a Review of Environmental Factors (REF) document.

As part of the implementation of this procedure, as part of the broader ecological assessment, each REF shall clearly identify and describe the following biodiversity impacts of the proposed activity (noting that these are not the only biodiversity impacts that are to be considered in each REF):

1. Area in hectares of native vegetation (including a break-down of the area in hectares of each vegetation community type) that will be cleared as a consequence of the activity, and
2. Number, trunk diameter and species of each native tree that will be removed as a consequence of the activity, and
3. Number and size class of each tree hollow that will be removed as a consequence of the activity.

Offsets shall be provided for the clearing of native vegetation and trees and the removal of tree hollows as part of the implementation of this procedure.

In this procedure:

1. The biodiversity impact will be determined, then
2. The biodiversity impact will be used to calculate the required offset measure(s), then
3. The cost of delivering the offset measure will be calculated, then
4. The offset measures cost shall be transferred from the Project budget to the Natural Systems budget, then
5. The Natural Systems project officers shall administer the delivery of the offset measure(s) using the funds provided (and which may include the appointment of relevant contractors), then
6. The delivery of the offset measures will be audited and reported internally.

The quantum of required offset measures for the clearing of native vegetation/ trees for the activity shall be calculated as per Table 1a. Cost calculations for the provision of offset measures for clearing native vegetation/ trees is as per Table 1b.

The quantum of required offset measures for the removal of tree hollows for the activity shall be calculated as per Table 2a. Cost calculations for the provision of offset measures for the removal of tree hollows is as per Table 2b.

Costs of all offset measures shall be provided as part of the project funding and shall be transferred by the project manager to a suitably-identified Natural Systems budget on or soon after approval of the activity.

**Table 1a**

Area of clearing (hectares)	Offset measure
For each 1-hectare of a vegetation community type that <u>is</u> a type of endangered ecological community that is to be cleared	<b>4-hectares</b> of native vegetation shall be replanted
For each 1-hectare of a vegetation community type that is <u>not</u> of a type of endangered ecological community that is to be cleared	<b>2-hectares</b> of native vegetation shall be replanted
Number and type of trees removed	Offset measure
For each 1-tree of a species that is a listed threatened species	<b>10-trees</b> shall be replanted
For each 1-tree of a species that is a preferred koala food tree species	<b>4-trees</b> shall be replanted
For each 1-tree of any other type not included above	<b>2-trees</b> shall be replanted

**Table 1b**

Offset measure	Cost
For each 1-hectare of native vegetation to be replanted	\$8,300
For each 1-tree to be planted	\$20

Both the area offset cost and the tree offset cost calculation shall be calculated and the adopted cost shall be whichever cost is larger.

**Table 2a**

Number of tree hollows to be removed	Offset measure
For each 1-hollow that is to be removed	<b>2-nesting boxes</b> shall be installed

**Table 2b**

Offset measure	Cost
For each nesting-box to be installed	\$85

**For example: Offset calculation for the Cedar Party Creek Bridge Replacement**

Biodiversity impact	Offset ratio	Offset required	Offset cost (per item)	Offset Cost
Clearing of <b>0.15-hectares</b> of lowland rainforest EEC	4:1	0.60-ha	\$8,300 per ha	<del>\$4,980</del>
Removal of <b>158-trees</b>	2:1	316-trees	\$20 per tree	\$6,320 <sup>^</sup>
Removal of <b>8-tree hollows</b>	2:1	16-nest boxes	\$85 per box	\$1,360

<sup>^</sup> adopted as it is the larger of the costs calculated on the area cleared versus trees removed methods

Offset cost for Cedar Party Creek Bridge replacement is **\$7,680**.

Council’s Natural Systems Branch shall be responsible for the timely administration of offsetting using the funds calculated and provided for by the activity.

In delivering offsets, the following shall be considered:

- Offsets shall not be used as a means for unreasonable activities to gain project approval
- Offsets shall be provided as near to the area of disturbance as possible, unless there is a clear and over-riding local or sub-regional biodiversity conservation priority
- Offsets shall preferably be provided on Council-owned or controlled land
- Offsets can be provided on privately-owned land but only where there is an instrument or easement which secures the investment in perpetuity
- Offset plantings can be installed in cleared areas of road reserves provided that sight distance and roadside safe clear distance requirements are not compromised
- Offsets can be delivered in a consolidated strategic restoration priority areas or priority remediation or repair sites (such as streambank protection areas) distant from the area of the works if a significant biodiversity benefit is derived from the work (to the satisfaction of Council’s Senior Ecologist)
- Council’s Natural Systems Branch has an ability to utilise funds for offsets for discretionary biodiversity repair, conservation or restoration actions to provide for the flexible delivery of offset funding
- Council’s Natural Systems Branch will determine the restoration site, with input from other relevant branches of Council and the community, where applicable
- Plants used in offset plantings shall preferably be from local providence seed-stock grown at Council’s own nursery facilities
- Offset planting shall take place during or as soon as practicable after the completion of the project’s main activities during seasons and conditions that may maximise survival rates of plantings
- Offset costs are to be calculated in each Review of Environmental Factors prepared for each activity/ project.

The offset measures are in addition to other project safeguards or actions that are deemed to be required such as habitat avoidance/ no-go areas, generation and use of mulch, logs and hollows as habitat furniture, wildlife-related signage, etc.

**Definitions**

For the purpose of this procedure, the following definitions apply:

<b>Term</b>	<b>Definition</b>
<i>Area of Outstanding Biodiversity Value</i>	An area so mapped on the Register of Declared Areas of Outstanding Biodiversity Value by the NSW Government
<i>Biodiversity impact</i>	The same definition as “ <i>impact on biodiversity values</i> ” as in the Biodiversity Assessment Method (OEH, 2017)
<i>Biodiversity offset</i>	Measures that compensate for the residual adverse impacts of an action on the environment
<i>Clearing native vegetation</i>	The same definition as in s60C of the <i>Local Land Services Act 2013</i> , being: <i>clearing native vegetation means any one or more of the following:</i> <i>(a) cutting down, felling, uprooting, thinning or otherwise removing native vegetation,</i> <i>(b) killing, destroying, poisoning, ringbarking or burning native vegetation.</i>
<i>Council activity</i>	An activity of Council undertaken pursuant to Part 5 of the <i>Environmental Planning and Assessment Act 1979</i>
<i>Council project</i>	As per Council activity
<i>Native vegetation</i>	The same definition as in s60B of the <i>Local Land Services Act 2013</i>

<i>Native plants</i>	Plants that occurred naturally in the MidCoast Council area prior to European settlement
<i>Nesting box</i>	Man-made enclosure made for vertebrate animals to occupy for shelter, denning or nesting
<i>Significant impact</i>	The same meaning as in s7.2 of the <i>Biodiversity Conservation Act 2016</i>
<i>Tree</i>	A tree is a living or dead perennial plant (including mangroves and palms) with a self-supporting woody stem that occurred naturally in the MidCoast Council area prior to European settlement and which has a trunk diameter of at least 10cm at breast height over bark or for palms has a height of greater than 3-metres.
<i>Tree hollow</i>	Cavities in the trunks and limbs of living or dead trees that have the potential for occupation by vertebrate fauna
<i>Tree hollow, large</i>	Tree hollows with an entrance diameter of greater than 15cm
<i>Tree hollow, medium</i>	Tree hollows with an entrance diameter of between 5cm and 14cm
<i>Tree hollow, small</i>	Tree hollows with an entrance diameter of less than 5cm

## References and Related Documents

- Commonwealth of Australia. 2012, *Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy*.
- NSW Office of Environment & Heritage. 2018, *OEH principles for the use of biodiversity offsets in NSW* (available at: <https://www.environment.nsw.gov.au/biodivoffsets/oehoffsetprincip.htm>)
- NSW Office of Environment & Heritage. 2017, *Biodiversity Assessment Method*.

## Responsible Officer

Senior Ecologist