25/8/2023

Dear TPC,

I'd like to add a little further information to my previous submission (attached) on the KIPS. It's been a busy 6 months since I lodged that submission and I'm grateful to have learnt and seen more about how our LUPAA system works, via the HV draft LPS hearing process.

A general comment I'd make is that the system is complex, and that anything which can be done to make the system simpler will yield great value not only for those professionals using LUPAA, but for the broader community whose understanding of a clearer, simpler planning scheme system should yield greater compliance and more efficient processes.

Particularly in the context of the above, I would query the utility of the two Policy documents proposed for inclusion in the KIPS. A quick google hasn't revealed to me that any other Tasmanian councils have found the need to add policy-level detail to the one-twentieth provisions of the Local Government (Building and Miscellaneous Provisions) Act 1993, or to the offset guidelines provided by DNRET.

Consistency between the various levels and issue-specific systems used by federal, state and local government across biodiversity issues is vitally important, and I remain concerned that these proposed Policy inclusions hamper this.

One aspect of consistency is around the imposition of conservation obligations of public benefit, which our state Forest Practices and Threatened Species systems recognise through the provision of compensation mechanisms for landowners who are unable to utilise their property as envisaged. This seems contradicted by the provisions of KC's Biodiversity Offset Policy.

I've made a number of comments and notes on a copy of the Biodiversity Offset Policy and have attached this. Some reiterate the points of my previous submission, some raise new issues or questions, some note opportunities to improve grammar or document structure.

Kind regards,

Amy Robertson
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UN Intergovernmental Panel on Climate Change (IPCC): "a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks while producing timber, fibre, or energy, generates the largest sustained benefit to mitigate climate change."

27/2/2023

Dear General Manager,

I'd like to contribute a few opinions about the proposed inclusion of a Biodiversity Offset Policy in the Kingborough Interim Planning Scheme 2015 (and indeed, in any future Local Provisions Schedule in the Tasmanian Planning Scheme).

I understand and agree that it's a complex and sensitive area to work in, and applaud effort to clarify the decision-making process on biodiversity issues.

Essentially, this tool aims to manage risk around potential biodiversity loss due to LUPAA developments in Kingborough. Having worked in a decision-making space on similar matters, I offer some points for consideration by KC and TPC.

Decision-making delegation process and flexibility
I read the Policy as being worded very 'tightly', which is useful as it enables more clarity for both decision-makers and community. However, I also believe that it's important to recognise that we're likely unable to predict all the scenarios the Policy will face, or how existing inputs will change through time.
In particular, climate change is likely to challenge existing norms and some innovation in responses will likely be useful to improve our community's adaptation and resilience. I'd like to see recognition of the potential value of innovation and research in the last point under Table 3, as a contribution that may offer additional value in an offset.

Offset security confidence
There seems to be an assumption that offsets are less secure than pre-development vegetation, leading to a higher ratio for replacement. I'd like to see acknowledgement that where a regulated or accountable offset is implemented, the replacement ratio should be varied downwards to reflect the greater confidence in benefit.
Otherwise there's no incentive to 'do better' in implementing an offset - this potentially punishes the conscientious.

Potential habitat vs significant habitat
It makes sense from a risk management point of view, that response is proportionate to hazard, and therefore that 'significant habitat' is prioritised for more intense compensation than 'potential habitat'.
In Table 3, potential TSP/EPBC Act species habitat is treated as Moderate priority with a replacement ration of 3:1. This is a very large impost for a relatively uncertain value - especially for example where Eastern Barred Bandicoot or Quoll habitat is widespread across most of Tasmania. This ranking equates the value of this potential habitat with that of significant habitat for rare TSP/EPBC Act species, where I believe these are of different actual biodiversity value.
I'd like to see this category shifted to 'Low value', since it most generally equates with "all other native vegetation communities" (and with some non-native vegetation communities such as plantations or pastures).

Individual tree value ratings
I'm concerned that individual trees are targetted with high or very high biodiversity value ratings, where typically the biodiversity value of trees will be higher when they exist more robustly in a stand with its additional ecological features.
There's risk that this part of the policy unduly emphasises the importance of single trees, where these are actually a less sustainable method of providing continuing biodiversity value.
I'm also concerned that some definitions here are very absolute - for example, tree diameter is not always reflective of hollow potential (eg. a Bruny Island wet forest regrowth tree from the '67 bushfires).

Financial value
The financial offset rate should differentiate between each category of biodiversity values, rather than lumping high and moderate biodiversity value together for $13,650 per hectare.
Perhaps I'm misreading, but is there a financial offset option for low priority biodiversity? There should be (and differentiated from high/moderate).

Systematic fairness
It's also occurred to me that there's a significant discrepancy between the likely cost to a developer, for an application to clear trees via Kingborough's LUPAA system and the state's Forest Practices System.
For example, current FPP fees to clear native forest start from $872.10 (which covers up to 17ha), much less than KC's proposed $13,650.
I don't think it's useful to set up a system where the state's Forest Practices System is handballed a stream of land- or tree-clearing applications because it's cheaper than a particular local council's system. And I understand that there's a provision where FPPs are not exempt from LUPAA where they cover development - but prescribing future land use (or non-use) is also not a role for an FPP.
Council should consider whether encouraging participation in its system is also a priority, and how it might do that - without just applying punitive measures.

I'd be willing to speak to this submission at TPC hearings, and may have further background I can offer on some points.

Kind regards,

Amy Robertson
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UN Intergovernmental Panel on Climate Change (IPCC): "a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks while producing timber, fibre, or energy, generates the largest sustained benefit to mitigate climate change."

Kingborough

Biodiversity Offset Policy

Policy No:	6.10
Approved by Council:	August 2022
New Review Date:	August 2027
Minute No:	C340/16-2022
ECM File No:	12.155
Version:	2.0
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

Kingborough

Biodiversity Policy 6.10

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, DPIPWE 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 (DPIPWE) 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. – but 'vicinity' is still relevant + not defined location. - eg. foraging habitat proximate to a known successful nest

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 in the local planning approval process (Pitt & Sherry 2011) (referred to as the Regional Offset Guidelines); and

?
can't find this document.

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, 2015) (referred to as the RMPS Offset Principles) as amended from time to time. nre tas.gov.au dpipwe

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 and the RMPS Offset Principles. 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 (iii)', 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 (iv)' 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. but improvement?

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 Vegetation Condition Assessment methodology 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.

6.14 The financial offset must be paid into the Kingborough Environmental Fund established by Council for this purpose.

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

Any proposal MUST include a/b/c (>1 of).

Option	Description
(a) On-site conservation via a conservation covenant under the *Nature Conservation Act 2002*, an agreement under Part 5 of the *Land Use Planning and Approvals Act 1993* or transferral to Council or	Covenanting or protecting in perpetuity remaining areas on the subject land. 2-8-3 + 2-8-4 to extent practicable, then (b)-(e)

Option	Description
the Crown to be managed for conservation	
(b) Off-site conservation via a conservation covenant under the *Nature Conservation Act 2002*, an agreement under Part 5 of the *Land Use Planning and Approvals Act 1993* or transferral Council or the Crown to be managed for conservation	Covenanting or protecting in perpetuity an area of sufficient size, but off-site.
(c) Financial offsets VS FPP CF-CLR: (23/24 rates) 1.0ha @ $53.40/ha minimum $913.14 VS. rates + charges made by Council in meeting annually?	Financial offsets calculated at a rate of: • up to $570 per tree of very 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. perhaps it should be?
(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, 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: Biodiversity Value of Individual Trees live or dead?!

Description	Characteristics	Rationale	Biodiversity Value
Eucalyptus globulus or *E. ovata*	DBH >70cm	Swift parrot foraging habitat	Very high
E. viminalis	DBH >25cm and within or directly adjacent to significant forty-spotted pardalote habitat	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	Habitat for hollow dependent species	Very high
Eucalyptus globulus or *E. ovata*	DBH >40cm and <70cm	Swift parrot foraging habitat	High
E. viminalis but density constraint?	DBH >25cm and: • on Bruny Island; or • within 5,000m of significant forty-spotted pardalote habitat or within potential forty-spotted pardalote habitat	Forty-spotted pardalote habitat	High
A species that is listed in the *Threatened Species Protection Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999 (C'th)*	N/A	Listed threatened species	High
Priority species (including *Eucalyptus rubida)*	DBH >25cm	Meets IUCN criteria for endangered within Kingborough	High

Note lower DBHs in overstocked regrowth forest X.

Best for prioritisation detail & to live in central (state) operational location for currency updating.

Table 3: Biodiversity Values and the Replacement Ratios for Offsets

Value	Definition	Replacement ratio*
Very high priority values	• Native vegetation/ecological communities listed as endangered or critically endangered under the *Nature Conservation Act 2002* or the *Environment Protection and Biodiversity Conservation Act 1999*	6:1

Value	Definition	Replacement ratio*
	• Significant habitat for and/or areas known to contain threatened species listed under the *Threatened Species Protection Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999* that are: 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.	
High priority biodiversity values	• Native vegetation communities listed as vulnerable under the *Nature Conservation Act 2002 and EPBC* (Or) • Significant habitat for and/or areas known to contain threatened species listed under the *Threatened Species Protection Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999* 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
Moderate priority biodiversity values	• Significant habitat for and/or areas known to contain threatened species listed under the *Threatened Species Protection Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999* that are: (a) Recognised as rare; and (b) Are not specific to the municipal area. • Potential habitat for threatened species listed under the *Threatened Species Protection Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999*.	3:1 ↓ lower than significant habitat.

Value	Definition	Replacement ratio*
	• 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.	
Low priority biodiversity values	• All other native vegetation communities.	1:1 but vs. other systems eg. FPS.
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

* 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.

* Where values are not like for like, the required replacement ratio may be varied at the discretion of council

* 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.

* 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.

* Where the 'recipient land' contains additional values to the area being impacted, the offset ratio may be reduced at the discretion of Council.

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, planners.

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 Pitt & Sherry with North Barker and Associates (2011). *Guidelines for the Use of Biodiversity Offsets*, Southern Tasmanian Councils Authority, Hobart.

9.2 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*. Department of Primary Industries, Parks, Water and Environment.

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.