

SCS-036 First Party Native Vegetation Offsets Policy

TRIM Reference: Due for Review: 25 January 2024
Responsible Officer: General Manager Environment and Development

Purpose

This policy outlines Surf Coast Shire Council's (Council) commitment to:

- Support implementation of Victoria's *Guidelines for the removal, destruction or lopping of native vegetation* (and any subsequent approved regulations or guidelines) requiring approved clearing of native vegetation to have an offset that makes an equivalent or greater contribution to Victoria's biodiversity.
- Ensure proposed offset areas meet eligibility requirements as defined by the State Government and Council.
- Provide direction to permit holders on the location of first party native vegetation offset areas (i.e. offsets are established on land owned by the permit holder).
- Confirm that native vegetation offset sites cannot be used as any part of Public Open Space Contributions.
- Ensure applicants bear responsibility for costs relating to the establishment and management of native vegetation offset areas.
- Further Council's commitment to environmental leadership and support the preservation and enhancement of the natural environment.

Policy Principles

To support Council's commitment to preserve and enhance the natural environment this policy ensures a minimum standard and appropriate controls for native vegetation protection on private land.

Scope

This policy is applicable to any planning permit application or planning approval under the Surf Coast Planning Scheme where native vegetation is proposed to be removed and a first party native vegetation offset is proposed.

Policy

Council is committed to avoiding and minimising the loss of native vegetation in any proposal. It must be demonstrated to Council's satisfaction that these options have been fully explored and discounted prior to proposing the removal of native vegetation. Alternatives include: redesign of the proposal or a reduction in size of the development.

Offset sites must meet the eligibility criteria as outlined in section 1.1.

Native vegetation offset sites cannot be used as Public Open Space Contributions as outlined in Section 1.2.

First Party Offset sites should be incorporated into land owned and managed by landowners other than Council.

Council may, by resolution, agree to take over ownership of an offset site if such a proposal is of strategic benefit.

1.1 Eligibility

The offset site must be eligible to be an offset site, with eligibility confirmed against State government criteria and Council requirements including but not limited to the following:

a) The site must be able to be protected by a legally binding offset security agreement

An area of vegetation is eligible to be a First Party Offset site if the applicant can enter into a legally binding offset security agreement and commit to the following minimum security standards:

- Contains legally enforceable provisions
- Has no termination date
- Is approved by Council or the relevant State Government Department..

It is Council's preference for First Party Offset areas to be secured with a covenant under Section 3A of the *Victorian Conservation Trust Act 1972* (a Trust for Nature covenant) or an agreement with the Secretary to DELWP under Section 69 of the *Conservation, Forests and Lands Act 1987* (a Section 69 agreement).

The costs of securing any legally binding offset is the responsibility of the applicant.

b) The site must not be subject to an existing offset or agreement

It will need to be determined if the site is part of an existing offset or agreement such as a conservation covenant.

A site can only be eligible as an offset if it:

- a) has not already been used to offset the clearance of native vegetation;
- b) has not been subject to an agreement under an incentive or grant program to undertake actions equivalent to commitments in a first party general offset agreement;
- c) has not been designated as an area for native vegetation legislative enforcement purposes and is not already protected by an existing agreement..

c) The applicant must agree to minimum management commitments

For an area of native vegetation to be eligible to be an offset, the applicant must agree to minimum ongoing management commitments included in a **10 year** management plan. The management plan must be included in the legally binding offset security agreement. The following minimum commitments must form part of any management plan:

- Retain all standing trees (dead and alive)
- Exclude stock and other threats such as unregulated public access
- Ensure weed cover does not increase beyond the current level (Catchment and Land Protection Act 1994 and non-Catchment and Land Protection Act weeds combined)
- Monitor for any new and emerging weeds and eliminate to less than one percent cover
- Retain all logs, fallen timber and organic litter
- Control rabbits
- For grassland vegetation types, biomass management may be a requirement

Additional commitments will also be required to ensure the site meets eligibility criteria. For example, fencing may be required to control public use of the site to remove threats to long term conservation.

The offset site must be maintained in perpetuity at the condition achieved at the end of the first 10 years of the management plan.

d) Current and future land use must be compatible with an offset site

Incompatible uses include but are not limited to:

- Activities requiring removal of logs or trimming/clearing of understorey plants or trees
- Horse-riding, cycling or motorised vehicle use off established tracks

- Unrestricted public access where walking or off-track cycling may require trimming to remove hazards or directly trample vegetation
- Infrastructure easements
- Cropping
- Earthworks
- Ongoing activities that are likely to degrade vegetation condition or restrict improvement in vegetation condition e.g. informal recreation, mowing, stormwater management, off-lead dog walking.

e) The site must be free of current and future threats to the native vegetation condition

There must be no current or future threats to managing the native vegetation for conservation purposes. Examples of potential threats include but are not limited to:

- High levels of nutrient runoff
- Secondary salinity
- Continuing significant erosion which can't be controlled without impacting the vegetation
- Likely ongoing invasion of pest plants and animals
- Planned disturbances such as fuel reduction burning or flood mitigation

f) The location and management of the offset site must be compatible with bushfire management

Management of an offset site should not be restricted by the need to take action to address bushfire hazards and should not increase the bushfire hazards of adjoining or nearby properties. Eligible sites must conform to the following:

- **Outside a Bushfire Management Overlay:** A site is not eligible to be an offset if it is within 50 metres of a dwelling or land (but not a road) in a residential zone. The 50 metres allows for any future modification of vegetation in order to create defensible space around a dwelling.
- **Within a Bushfire Management Overlay:** A site is not eligible to be an offset if it is within 150 metres of a dwelling or land (but not a road) in a residential zone, unless confirmation is obtained from the Country Fire Authority or relevant fire authority that the offset site will not increase bushfire risk. The 150 metres allows for any future modification of vegetation within the defensible space zone, and avoids increasing the bushfire hazard within the 150 metre assessment area.

g) Minimum standards for patches of native vegetation

To be eligible to be an offset site patches of native vegetation must have a minimum 'site condition offset score' of 30 out of 75. If the offset is a treeless Ecological Vegetation Class, the site must have a minimum 'lack of weeds' score of 7 out of 15.

1.2 Native vegetation offset sites cannot be part of Public Open Space Contributions

Native vegetation offset sites are encumbered with permanent restrictions and requirements that make their management incompatible with many uses. Native vegetation offset sites cannot be used as Public Open Space Contributions.

Offset sites are not compatible with some open space reserve functions including active recreation, walking trails and stormwater management. In many cases public access and the risk management practices necessary to allow public use may conflict with the primary function of the site for native vegetation offsets and biodiversity conservation.

1.3 Long term ownership and management of First Party Offset sites

Council's preference is for First Party Offsets to be incorporated into allotments owned and managed by land owners other than Council.

If Council determines an offset site to be of strategic significance, it may consider accepting ownership of the land. This decision must be ratified at an ordinary Council meeting. In the event of Council accepting a transferral of land, the offset site must be secured by a Trust for Nature covenant or Section 69

agreement. A Section 173 agreement under the Planning and Environment Act cannot be used to secure the offset.

Definitions

Native vegetation offset = An offset that provides an equivalent or greater contribution to Victoria's biodiversity in exchange for the legal removal of native vegetation through the issue of a planning permit.

First Party Offset = A native vegetation offset secured on the landowner's privately owned land (excluding all publicly owned land or Crown Land).

Public Open Space Contribution = In this case, a land contribution as a public open space contribution under section 18 of the Subdivision Act 1988 or Clause 52.01 of the planning scheme.

References

- Guidelines for the removal, destruction and lopping of native vegetation, Department of Environment, Land, Water and Planning, 2017
- Native vegetation gain scoring manual, Version 2, Department of Environment, Land, Water and Planning, 2017
- First Party Offset Guide, Department of Environment, Land, Water and Planning, 2018

Document History

Version	Document History	Approved by – Date
1		Council resolution – 27 March 2018
2	Updated	Council resolution - 25 January 2022