

**INQUIRY INTO INTEGRITY OF THE NSW
BIODIVERSITY OFFSETS SCHEME**

Organisation: Port Stephens Council

Date Received: 31 August 2021



Clerk of the Parliaments, NSW Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear NSW Legislative Council

Re: Submission to the Inquiry into the Integrity of the NSW Biodiversity Offsets Scheme

Port Stephens Council is proud to advocate for and manage a Local Government Area (LGA) treasured for its beautiful environment. The Port Stephens LGA contains a vast variety of ecological values and biodiversity assets which are often managed and assessed through the NSW Biodiversity Offset Scheme (BOS).

Although Council is supportive of the BOS, the following aspects can be problematic and require reconsideration to improve outcomes:

1) Threatened species offsetting:

Council has concerns around the state-scale approach to offsetting of individual threatened species. Whilst ecosystem credits are required to be secured within the same bioregion, an adjacent bioregion or one within 100 km of the impact site. The BOS does not have the same requirement for individual threatened species. Ensuring that local populations of threatened species are retained is key to ensuring their survival at a state scale. For example, for threatened species to recover from a bushfire event, it is essential that there are surviving local populations to repopulate burnt areas. The risk of offsetting species credit species anywhere in the state, is that those species may eventually become locally extinct. For this reason, we consider that the BOS inadequately addresses the conservation of local populations of threatened species.

With regards to the Koala population in Port Stephens, developments may easily secure Koala offset credits elsewhere in the State, which does not offset impacts to the local Koala Population in Port Stephens. This approach is not considered consistent with the Port Stephens Comprehensive Koala Plan of Management (CKPoM). Requirements for Koalas to be offset locally or incentives (such as credit discounting or similar) are needed to encourage developments to prioritise the securing of local biodiversity offset credits, particularly when there is an active Koala Plan of Management. It is requested the BOS be reviewed for consistency with the NSW Koala SEPPs and the objectives to manage Koalas at a local scale, and for mechanisms to be provided that facilitate and encourage the offsetting of Koalas on a local scale.

2) Land clearing:

Council has often observed development applications where land clearing has been undertaken illegally prior to lodgement to reduce a sites ecological quality to either avoid triggering a Biodiversity Development Assessment Report (BDAR) or to no longer require offsets (due to a poor Vegetation Integrity Score). Support, guidance and resourcing is required from State Government to assist Local Governments to administer and manage compliance for illegal clearing of vegetation, particular in relation to interaction with the BOS.

Further, Port Stephens has substantial areas of rurally zoned land, much of which is not subject to rural activities and has high environmental value. Council has significant concerns about the interactions between allowable activities on rural land under the Local Land Services Act (LLS Act) and the biodiversity assessment pathway under Part 4 of the Environmental Planning and Assessment Act (EP&A Act)/ Biodiversity Conservation Act. The legislative framework currently allows rural landholders to lawfully clear vegetation through the self-assessment pathway under the LLS codes prior to DA lodgement. This results in reducing a sites ecological quality so that it either avoids triggering a BDAR or no longer requires offsets (due to a poor Vegetation Integrity Score). A legislative review is recommended to reduce this gap between the LLS Act, Biodiversity Conservation Act and Environmental Planning and Assessment Act. Guidance is required from the State Government for both Local Land Services and Local Governments to identify how to consistently navigate and apply compliance on this legislative interaction.

3) Streamlined BDARs:

The preparation of Streamlined BDARs in accordance with the Biodiversity Assessment Method 2020 (BAM) does not require targeted surveys for threatened flora species, which could lead to localised extinctions or loss of cryptic species such as orchids, this is particularly pertinent in the Port Stephens LGA where there are several threatened ground orchid species. Council wishes for the BAM to be reviewed to include targeted surveys for cryptic species in Streamlined BDARs.

Similarly to the comments above, streamlined BDARs do not require surveys for hollow-dependent fauna (that are not an SAI species). This may lead to substantial negative impacts to threatened species that have a high fidelity to a single hollow e.g. large forest owls. Council considers this an inadequacy of the BOS and requests a review to the streamlined BDAR modules of the BAM to require targeted surveys for hollow-dependent fauna with high fidelity to single hollows.

Another issue with the preparation of Streamlined BDARs relates to the small area assessments methodology. Streamlined BDARs are not currently available within areas of an approved Koala Plan of Management and a comprehensive BDAR is required. It is suggested that, to reduce unnecessary green tape, the BAM be amended to allow for small area Streamlined BDARs within Core Koala habitat as identified in a Plan of Management (particularly within Residentially zoned lands), with the addition of a targeted survey, assessment and offset requirements for the Koala.

Should you have any questions about the submission please don't hesitate to contact Council's Environmental Planning Team on _____ or myself the below details.

Yours sincerely,

Kimberly Baker
Environmental Planner
Port Stephens Council

30 August 2021

Telephone enquiries