POLICY NAME:	**Biodiversity - Compensatory Habitat and Offsets**
POLICY REF:	**XXX**
MEETING ADOPTED:	**Resolution No.**
POLICY HISTORY:	

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1. OBJECTIVE

The objectives of this policy are:

a) To identify compensatory habitat offsetting ratios for proposals that impact biodiversity values and are subject to approval under either Part 4 or Part 5 of the *Environmental Planning and Assessment Act 1979*;

b) To support the identification and assessment of biodiversity impacts associated with development in Ballina Shire and the mitigation of identified impacts;

c) To encourage development that contributes to the maintenance, enhancement and/or rehabilitation of environmental values and ecologically sensitive areas;

d) To promote the protection and restoration of biodiversity assets in Ballina Shire.

2. POLICY

Application and Requirements

The Ballina Shire Biodiversity Compensatory Habitat and Offsets Policy applies to proposals subject to Part 4 or Part 5 of the *Environmental Planning and Assessment Act 1979*. More specifically, the policy applies in the following circumstances:

- The proposal does not trigger the Biodiversity Offsets Scheme (BOS), and;
- Ballina Shire Council or the Northern Regional Planning Panel is the consent or approval authority, and;
- The proposal directly or indirectly impacts biodiversity values associated with native vegetation in Ballina Shire (see conservation categories in Table 1).

This policy is to be applied is association with the provisions of the Ballina Local Environmental Plan 1987, Ballina Local Environmental Plan 2012 and the Ballina Shire Development Control Plan 2012 (where provisions of these plans are applicable).

Where an offset is determined to be appropriate, after consideration of the principles of avoid, minimise and mitigate, the offset ratios set out in this policy are to be applied.

Applications for development that propose a compensatory habitat offset must include the following information:

- Analysis of the proposed development with respect to the principles of avoid, minimise and mitigate. This must include reasoning as to why an offset is sought over avoidance of the identified impacts.
- Identification and quantification of direct and indirect impacts (including area and/or number of trees impacted).
- Mapping showing the location of impacted biodiversity assets including details of vegetation communities, threatened species (flora and fauna) and important habitat features present.
- Demonstration that there is a net gain in the area of native vegetation and fauna habitat and that the proposal improves or maintains biodiversity values.

- Calculation of proposed offsets based on the offset ratios set out in this policy.
- Details of proposed offset vegetation (including planting composition).
- Identification of proposed offset location(s), the suitability of the site(s) for the offset works and tenure arrangements.
- Details of timing for offset planting, ongoing management and maintenance, reporting, cost of works and criteria for assessment of outcomes in the form of an offset management plan.

Compensatory Habitat Offset Ratios

Ballina Shire biodiversity values categories and associated offset ratios for the purposes of this policy are set out in Table 1.

The compensatory habitat offset ratios in Table 1 apply to all proposals that are subject to this policy.

The compensatory habitat offset ratios are to be applied having regard for the following:

- A compensatory habitat offset is a replacement of vegetation removed as a result of development or works.
- The offset ratios set a defined replacement rate and are expressed as number/area replaced to number/area removed (e.g. 5:1 means an offset must be provided at a rate of 5ha or trees for every 1ha or tree removed).
- Calculation of offsets is based on the number of trees or area of habitat lost or both. The extent to which area and/or individual trees is to be used as the basis for calculating an offset is to be determined as part of the assessment of a development proposal. As an example for calculation purposes, if the offset ratio is 5:1, five trees must be replanted for every one lost. Or in the case of habitat, five times the area of habitat lost must be restored – that is 5ha of habitat should be restored for every hectare cleared.
- Area based calculations are to be rounded to the nearest square metre.
- Where an area of vegetation to be offset is comprised of a mixture of conservation categories, the higher offset ratio will be applied (e.g. an area of mixed non EEC native vegetation and koala habitat will have a 15:1 offset ratio applied).
- Offsets should be located on the same property where the impact occurs. If an offset is to be provided on an alternate site, the proponent must demonstrate why:
  - it is not practical to achieve this; or
  - a suitable biodiversity outcome cannot be achieved on the site; or
  - a better outcome can be achieved on a different site.
- Proposals for off-site offsets must demonstrate security of tenure suitable to enable the required offset works, and associated monitoring and management works, to be undertaken.
- As a first principle offsets are to be provided for on a like for like basis (i.e. loss of one vegetation type should be compensated for by the same vegetation type). Where this can be demonstrated to Council's satisfaction that this cannot be reasonably achieved, an offset based on a different vegetation type, but of the same biodiversity values category, can be applied.
- Required offsets must be provided for within Ballina Shire.

- Offsets relating to koala habitat must be undertaken in accordance with the Ballina Shire Koala Management Strategy (including the Koala Habitat Compensation Policy contained within the strategy).
- Public works undertaken by or on behalf of Council and development primarily for the purpose of affordable housing are subject to a reduced offset rate as outlined below.

Table 1: Compensatory Habitat Offset Ratios

Conservation Category	Offset Ratio	Application Notes
Very High Biodiversity Value Vegetation - Threatened ecological communities (TECs) including EECs - Wetlands, waterways and riparian areas - Wildlife corridors - Old growth forest - Vegetation on over-cleared Mitchell Landscapes	10:1	
High Biodiversity Value Vegetation - Native Vegetation (other than that listed under the very high biodiversity value vegetation category).	5:1	This applies for all native vegetation that is not classed as very high conservation value vegetation or koala habitat. Includes individual remnant trees (e.g. paddock trees).
Koala Habitat[1]	15:1	To be applied in accordance with the Ballina Shire Koala Management Strategy.
Threatened Flora	10:1	To be applied on a per plant basis with the threatened species to be offset on a like for like basis. This is applied additional to other offset requirements. For example, if a 2ha area of high conservation value vegetation that includes two threatened plants to be offset, the total offset requirement will be 10ha plus 20 additional threatened plants.
Important Habitat Features[2]	3:1	To be applied on a per habitat feature basis. For example, for each individual habitat feature that is to be removed, 3 nesting boxes shall be installed or where 1 raptor nest is to be removed, 3 artificial nest poles shall be installed. This is applied additional to other offset requirements. For example, if a 2ha area of high conservation value vegetation that includes one raptor nest is to be offset, the total offset requirement will be 10ha plus 3 artificial nest poles.

[1] Koala Habitat as identified under the Ballina Shire Koala Management Strategy as Primary, Secondary (Class A – C)

[2] Including but not limited to: Tree hollow (counted individually), Very large native trees (80cm+ DBH) and Raptor Nests

Public Works

Reductions to compensatory habitat offset ratios under this policy set out in Table 1 apply to public works carried out by or on behalf of Council and for development that is primarily for the purpose of affordable housing (delivered by Government or a community housing provider).

Public works and development for the purpose of affordable housing are typically associated with substantial public benefits. These can include social benefits (such as alleviating traffic congestion, meeting basic needs, providing for meeting places or providing infrastructure for exercise and outdoor activity), environmental benefits (such as better energy or water use by replacing inefficient or old infrastructure) and economic benefits (such as improved transit times from road network upgrades).

It is also recognised that public works are typically funded by the public and this involves balancing a range of considerations to achieve outcomes in the public interest within the available funding.

Table 2 sets out the rates at which the offset ratio are to be applied to public works and development primarily for the purpose of affordable housing:

Table 2: Compensatory Habitat Offset Ratio Rates for Public Works and Affordable Housing

Conservation Category	Offset Ratio Rate Public works undertaken by or on behalf of Council	Offset Ratio Rate Development primarily for affordable housing by Government or community housing provider	Offset Ratio Rate Maintenance works associated with public assets undertaken by or on behalf of Council
Very High Biodiversity Value	*8:1*	*8:1*	*5:1*
High Biodiversity Value	*4:1*	*4:1*	*2.5:1*
Koala Habitat	15:1	15:1	15:1
Threatened Flora	*8:1*	*8:1*	*5:1*
Important Habitat Features	3:1	3:1	*2:1*

Note: Italics denotes reduced ratio rate.

Reduced compensatory habitat offset rates do not apply to:

- koala habitat; or
- important habitat features (aside from in relation to maintenance works)

For koala habitat the requirements of the Ballina Shire Koala Management Strategy apply.

3. BACKGROUND

This policy intends to capture proposals which do not trigger other offset policies developed by State and Commonwealth governments, yet cause adverse impacts to local biodiversity. Furthermore, this policy will allow Ballina Shire Council to apply standard compensatory offset ratios to all proposals which trigger the policy, therefore creating an effective, efficient, and transparent framework.

Many councils (Byron, Coffs Harbour City, Clarence Valley, Hornsby, Mid-Coast) have introduced offset polices and/or provisions which aim to avert the loss of biodiversity on a local level. These polices and provisions often capture projects and activities which may not otherwise trigger State and Commonwealth offsetting schemes (i.e. NSW Biodiversity Offset Scheme (BOS). Table 3 identifies the ratios applied by other NSW local government's as a guide to the approach taken elsewhere.

Table 3. Compensatory Habitat Ratios Applied by Other Councils in New South Wales

LGA	Compensatory Habitat Offset Ratio Applied (replaced: removed)	
Byron Shire Council	10:1	Trees of high ecological value
	5:1	Trees of medium ecological value
	1:1	Trees of low ecological value
Coffs Harbour City Council	20:1	Old growth, hollow-bearing or ecologically significant tree
	10:1	EEC, Riparian Zones, High Value Habitat
	5:1	Koala Habitat
Clarence Valley Council	10:1	EEC
	5:1	Non - EEC
Mid-Coast Council	4:1	EEC
	2:1	Non - EEC
Hornsby Shire Council	8:1	Regional significant habitat
	6:1	Locally significant habitat
	4:1	Remnant EEC trees
	5:1	Supporting habitat
	2:1	Remnant Trees and other native vegetation.

In Ballina Shire, the offset ratios are based on a recognition that relative to total land area, a large percentage of the native vegetation cover in the shire has been cleared and that Ballina Shire contains a variety of significant biodiversity assets including endangered ecological communities and various threatened flora and fauna species that are listed under State and Federal conservation instruments.

The policy also recognises that Council has an established Koala Management Strategy that reflects the presence of a nationally significant koala population in the shire and has regard for the suite of public interest outcomes that are associated with public works.

4. DEFINITIONS

Council	Ballina Shire Council
BOS	Biodiversity Offsets Scheme as applied by NSW Department of Planning, Industry and Environment (DPIE) under the Biodiversity Conservation Act 2016 (BC Act) commenced on 25 August 2017.
BC Act	Biodiversity Conservation Act 2016

EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
EP&A Act	Environmental Planning and Assessment Act 1979
Part 4	Part 4 (Development Assessment) refers to the development assessment pathway for proposals which require approval under Part 4 of the EP&A Act (1979).
Part 5	Part 5 (Environmental Assessment) refers to the development assessment pathway for activities which require approval under Part 5 of the EP&A Act (1979).
TEC	Threatened Ecological Community is a collective term which recognises ecological communities' under threat, but refrains from ranking the communities by the status at which they are threatened.
EEC	Endangered Ecological Community refers to one of the categories which exist for listing threatened ecological communities (TECs) under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) and the Biodiversity Conservation Act 2016 (BC Act).

5. SCOPE OF POLICY

This policy applies to:

- Council employees
- Councillors
- Community members
- Consultants/Contractors

6. RELATED DOCUMENTATION

Related documents, policies and legislation:

- Biodiversity Conservation Act 2016
- Environmental Protection and Biodiversity Conservation Act 1999
- Environmental Planning and Assessment Act 1979
- Ballina Local Environmental Plan 1987
- Ballina Local Environmental Plan 2012
- Ballina Shire Development Control Plan 2012
- Ballina Shire Koala Management Strategy 2017

7. REVIEW

The Ballina Shire Biodiversity Offset Policy is to be reviewed every four years.