

Biodiversity Planning Policy

Policy Reference No:	CP2015-XX-XX (to supersede CP2011-11-18)
File Reference No:	HCC09/221-02
Strategic Objective:	4.1 Facilitate appropriate urban development while protecting and enhancing the City's environment, natural heritage and rural spaces.
Date of Adoption:	####
Date for Review:	### 2019
Responsible Officer:	Manager Sustainable Environment
Department:	City Sustainability

BIODIVERSITY PLANNING POLICY

1. POLICY STATEMENT

Council is committed to ensuring that as a requirement of development:

- 1.1 Biodiversity values are protected and enhanced to achieve a net gain in quality, extent and connectivity of conservation assets within the municipality.
- 1.2 Conservation assets are well integrated within the built environment and the community is able to access and enjoy these spaces.

2. PURPOSE

The purpose of this policy is to:

- 2.1 Articulate Council's commitment and approach to the protection and retention of the biodiversity values in the planning of new development and Council works.
- 2.2 Provide guidance to applicants to ensure that native vegetation, scattered indigenous trees and waterways are appropriately considered and incorporated into development design.
- 2.3 Ensure that offset requirements from development are met and contribute to the enhancement of biodiversity values in Hume and the wider Northern Region.

3. SCOPE

This policy is applicable to:

- 3.1. Any proposed precinct structure plan, development plan or planning permit application which has the potential to impact on native vegetation, scattered indigenous trees or waterways.
- 3.2. Council works which have the potential to impact on native vegetation, scattered indigenous trees or waterways (whether conducted by, or on behalf of, Council).
- 3.3. Any native vegetation offset reserve or other biodiversity conservation reserve which is located within the municipality.

This policy may also provide guidance to the removal of non-indigenous vegetation that falls outside of the Hume Planning Scheme where the vegetation acts to contribute to the objectives of this policy.

4. OBJECTIVES

The objectives of this policy are to:

- 4.1. Reduce the impact of development on biodiversity.

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- 4.2. Increase recognition of native vegetation as a visual and environmental feature that provides character, cultural history, local context, ecosystem services and amenity to the municipality.
- 4.3. Increase the number of scattered trees that are retained during the development process for local biodiversity, amenity, cultural heritage and landscape character purposes.
- 4.4. Improve the incorporation of biodiversity assets (including native vegetation, scattered indigenous trees, escarpments and waterways) in the design of new developments.
- 4.5. Increase the quantity of native vegetation offsets that are locally sourced within and nearby the Hume municipality.
- 4.6. Ensure that offset sites are appropriately designed, protected and maintained to adequately compensate the environment for losses to biodiversity.
- 4.7. Increase community access and enjoyment of conservation areas.

5. POLICY IMPLEMENTATION

5.1. Applications to Remove, Destroy or Lop Native Vegetation

Applications to remove, destroy or lop native vegetation must provide the following information to ensure that the proposal can be assessed against the objectives of this policy.

- a) The context of the site and its surrounds with regards to the entire network of existing and future reserves (including conservation reserves and open space) whether managed by State agencies, Hume City or other councils.
- b) The presence and location of indigenous and non-Indigenous cultural heritage values on the site.
- c) Biodiversity conservation attributes within the site (including but not limited to):
 - Areas of high quality conservation significance
 - Presence of trees with a diameter at breast height over 40cm and/or trees with hollows
 - Areas of high floristic richness
 - The impact of the development on habitat connectivity for flora and fauna species and vegetation communities
 - The size of the conservation area with regard to ongoing viability of the populations of the flora and fauna species to be protected
 - Areas of the site that represent a moderate to high quality example of a rare, vulnerable or endangered Ecological Vegetation Class (EVC) or support habitat for a rare and threatened species listed under the Department of Environment Land Water and Planning (DELWP) advisory list
 - Current or likely requirements to meet a relevant *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC) approval condition (e.g. Biodiversity Conservation Strategy)
 - The role that the biodiversity values and any canopy cover have in providing for local amenity and landscape character.

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- The location of any natural waterways, wetlands and artificially constructed drains and dams
- d) An assessment of opportunities to avoid and minimise the loss of native vegetation within the site.
- e) Any bushfire, grassfire or public safety risks.
- f) The capability of the land to support the proposed activity including slope, land subsidence potential and protection of water quality, including the role of native vegetation in preventing soil erosion or landslip.
- g) The requirement and size of any proposed sewage and effluent easements.
- h) An assessment of the vegetation to be retained and removed against Native Vegetation Protection Standards (s6.13) defined within the definitions of this policy

5.2. Native Vegetation Offset Allocations

This section outlines Council's requirements for the acceptance of offset allocations where a proposal to clear native vegetation has been permitted.

5.2.1. Permitted clearing of native vegetation – Biodiversity assessment guidelines

- a) Native Vegetation Offsets are to be determined in accordance with Victoria's *Permitted clearing of native vegetation – Biodiversity assessment guidelines* incorporated in the Victorian Planning Scheme, and any subsequent approved guidelines or programs.
- b) Offset sites for General Biodiversity Equivalence Units and Specific Biodiversity Equivalence Units must be located within Hume. Where it can be demonstrated that suitable offset sites cannot be found within the municipality, offset sites must be located as close to the municipality as possible.
- c) The location of the offset sites for all credits purchased via the Native Vegetation Credit Register must be provided to Council prior to the issuing of Statement of Compliance.
- d) Offset sites may be located either on private land or suitable freehold public land.
- e) Offsets sites must be secured on title via a Section 69 agreement or Trust for Nature Covenant. Section 173 agreements are not to be used for this purpose. They may be used as a temporary measure (subject to Council approval) during the process of securing offsets through other means.

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- f) Council will only accept offsets required under Hume City Council planning permit conditions, within a secondary municipality if traded through the Victorian Native Vegetation Credit Register.

5.2.2. Biodiversity Conservation Strategy

For areas identified within the Biodiversity Conservation Strategy all habitat compensation obligations and land security obligations must be met in accordance with the approved documents.

5.3. Conservation reserves design and management (offset and non-offset)

This section outlines how Council will consider the design of conservation reserves in meeting the objectives of this policy.

- 5.3.1. All conservation reserves will be negotiated on a case by case basis and Council has the right to refuse acceptance of any conservation reserve.
- 5.3.2. Conservation reserves can be created for the protection of native vegetation, biodiversity, and landscape values such as escarpments, creeks and waterways.
- 5.3.3. Council may consider accepting ownership of conservation reserves where a benefit to the community and the environment is achieved.
- 5.3.4. Each conservation reserve must be accompanied by a fully costed two-year conservation management plan to be undertaken by the developer or with funds transferred to Council for management, prior to the issue of Statement of Compliance. If a conservation reserve will be an offset reserve in accordance with Section 5.4 the ten year Offset Management Plan will be used instead of a conservation management plan.
- 5.3.5. Shape and Size
 - a) Council will consider acceptance of conservation reserve assets of all shapes and sizes where ongoing management and protection can be ensured.
 - b) Wherever possible all conservation reserves should be squared off to ensure the lowest edge to conservation ratio possible.
- 5.3.6. Access
 - a) Suitable access is encouraged for all conservation reserves (formal and informal paths). These must be located outside of areas of significant habitat for native flora and fauna species.
 - b) Wherever possible access paths should also serve as fire breaks and management tracks.

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5.3.7. Integration with urban form and landscaping

- a) All conservation reserves must be bordered with road frontage wherever possible. Backs of lots must not interface with any conservation reserve.
- b) All conservation reserves must include buffers within the streetscape and public land realm that include the reintroduction of indigenous vegetation and improvements to landscape values. Applicants should consult with Council's Landscape Planning Team and Sustainable Environment Department for guidance.
- c) Where possible the planting of indigenous vegetation of local provenance should seek to extend and continue vegetative corridors and linkages, while ensuring that such plantings do not increase or introduce the risk of wildfire.
- d) Introduced species which are known to prove a weed risk to conservation reserves must not be used in landscape planting within 400 metres of conservation reserves. Applicants should consult with Council's Sustainable Environment Department and view the list of Priority Weeds on the Hume City Council website for guidance.
- e) All waterway conservation reserves must be protected from infrastructure at the minimum thresholds whichever is the greatest:
 - 10 metres above the 1:100 metre flood line, or
 - 35 metres past the top of the bank, and
 - encompassing any adjacent native vegetation and scattered trees
- f) A minimum 35 metre infrastructure setback is required from all escarpments. Passive parkland infrastructure (paths and activity nodes may be accepted within the 35m setback zone).
- g) Where two conservation areas are separated by a road or similar barrier, the risk of the barrier to faunal habitat connectivity must be investigated and where needed, suitable structures that reduce the connectivity must be implemented (e.g. frog underpasses, fauna bridges).

5.3.8. Fencing

- a) Fencing must be made of fire retardant materials. The use of recycled materials is desirable and encouraged.
- b) All fencing for conservation reserves must allow for fauna movement.
- c) Fencing must allow for access gates for management vehicles and pedestrians.

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5.3.9. Fire Breaks

- a) All reserves must be interfaced with roads to provide adequate fire safety buffers. Lots backing onto reserves must not be permitted.
- b) All fire mitigation measures (slashed fire breaks, earth bunds, setbacks) must be considered in the design of conservation reserves. Where a conflict between fire prevention and conservation aims is identified, fire mitigation measures are required to be located outside conservation reserves.

5.4. Native Vegetation Offset Reserves (new reserves)

This section is applicable in circumstances where the native vegetation offsets are located in reserves, created through subdivision processes (which are to be vested to Council).

- a) The applicant is responsible for funding all actions and achieving the required management objectives within the minimum statutory 10 year offset management time period.
- b) Where the offsets are located in future reserves which are to be vested to Council, a third party on-title agreement must be entered into prior to the vesting of the reserve with council. This to ensure that the in-perpetuity requirements can be met.
- c) In some instances Council may consider taking over the management and maintenance of offset sites prior to the 10 year timeframe where appropriate funding is provided by the applicant.
 - i. Early Management Responsibility will be negotiated on a case by case basis and must include a legally binding agreement to the satisfaction of Council.
 - ii. Council will include the cost of project management for the remaining offset period in negotiations with the applicant.
 - iii. Council will not take over management and maintenance of offset sites within the 10 year management period where the appropriate funding is not available.
- d) Any funds provided by applicants for offsets will be held by Council in a site specific fund for each offset site.
- e) Regardless of preceding management arrangements, shared trails which may intersect the offset site are to be made assets of Hume City Council upon the vesting of the reserve in Council's name and following any required defects liability period.
- f) Post the 10 year management offset timeframe and once the reserve is vested with Council, the responsibility for managing any in-perpetuity protection and management requirements rest with Council.

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5.5. Native Vegetation Offset on Existing Public Land

- 5.5.1. Where Council places offsets on existing Council freehold land the offsets must contribute to a Net Gain in the ecological outcomes for the site and will only be used to conduct ongoing additional management of the offset site. Offset funds will not be used for any activity currently funded by Council or required by existing legal responsibilities under any legislation or act.
- 5.5.2. The value of that land, at current property valuation, will be included in any offset value to be traded on existing public land.
- 5.5.3. Any funds provided by applicants for offsets will be held by Council in a site specific fund for each offset site.
- 5.5.4. All Council managed offset sites must be secured on title via a Section 69 agreement or Trust for Nature Covenant.

5.6. Native Vegetation Offset on Private Land

This section is applicable to offset sites located on land that will remain in private ownership.

- 5.6.1. Offset sites which are to be located on private land must be secured on title via a Section 69 agreement or a Trust for Nature Covenant. Section 173 agreements are not to be used for this purpose. Section 173 agreements may be used as a temporary measure (subject to Council approval) during the process of securing offsets through other means.
- 5.6.2. Council will support the creation of offset sites on private land within the municipality through incentive and education programs.

6. DEFINITIONS AND ABBREVIATIONS

6.1. Biodiversity

The variety of all forms of life, including:

- Genetic diversity – the variety of genes contained in each individual lifeform
- Species diversity – the variety of species
- Ecosystem diversity – the variety of ecological communities and habitats

6.2. Biodiversity Conservation Strategy

The Biodiversity Conservation Strategy (June 2013) is the overarching strategy for the protection of biodiversity in Melbourne's growth corridors.

6.3. Conservation Reserve

A parkland reserve managed by a public authority (including Council) for the purposes of the protection of biodiversity ecological values.

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6.4. Ecological connectivity

The ability for an exchange of individuals between populations, which may help prevent the negative effects of inbreeding and reduced genetic diversity that can occur within isolated populations. Ecological connectivity can help in the re-establishment of species that may have become locally extinct and also assist in species adapting to changing climatic conditions.

6.5. Ecosystem Services

The contribution that native vegetation plays in protecting important ecosystem service such as disease regulation, erosion control, flood management, clean air and pollination services.

6.6. Early Management Responsibility

The acceptance of Council to manage an Offset Reserve in accordance with an approved Offset Management Plan prior to the conclusion of the 10 year management period.

6.7. General Biodiversity Equivalence Units

A unit of measurement that calculates the impact of proposed clearance of native vegetation when that clearance will not have a significant impact on the habitat of a particular rare or threatened species.

6.8. Handover of Responsibility

The time when Council accepts maintenance responsibility at the conclusion of the 10 year management period for any offset reserve to be vested to Council or at a negotiated Early Management Responsibility date.

6.9. In-perpetuity agreement

On-title protection agreement that has no end; the native vegetation cannot be removed now or at any time in the future.

6.10. Native Vegetation

Plants indigenous to Victoria including, trees, shrubs, herbs and grasses.

6.11. Native Vegetation Credit Register

The Native Vegetation Credit Register is a register controlled by the Department of Environment, Land, Water & Planning that has the aim of improving consistency in the standards for native vegetation credits and transparency in how credits are traded and used. It assists with the trading of credits ensuring that credits are suitable to be used as an offset and that they have not been previously allocated.

6.12. Native Vegetation Offsets

In Victoria when native vegetation and scattered trees are permitted to be cleared, native vegetation offsets to compensate the environment for the loss of biodiversity values is required. There are two types of offsets in Victoria: General Biodiversity Equivalence Unit and Specific Biodiversity Equivalence Units.

6.13. Native Vegetation Protection Standards

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Where a proponent is seeking to retain or remove native vegetation the following Standards provide guidance on determining the level of protection for any retained or removed vegetation and determining if offsets are required. The Standards appear in descending order of priority.

a) Protected

- Vegetation is protected at two metres from the edge of habitat zones and twice the canopy width of each tree (patches and scattered), whichever is the greater.
- Vegetation will not be subject to any current exemptions under the Hume Planning Scheme that will be enacted once the development is completed.
- Vegetation can generally be used as an offset site / offset reserve subject to the Department of Environment, Land, Water & Planning requirements which include on-title protection.

b) Retained (scattered trees only)

- Trees are protected in accordance with the Australian Standard AS4970-2009 Protection of Trees on Development Sites.
- Vegetation is not subject to any exemptions under the Hume Planning Scheme that will be enacted once the development is completed.
- Trees do not have to be offset but cannot be used to claim offset credits.

c) Deemed Lost

- Vegetation is retained but is subject to potential clearance which would not require a planning permit under Clauses 52.16 or 52.17 of the Hume Planning Scheme, or
- the subject tree cannot be protected in accordance with Australian Standard AS4970-2009 Protection of Trees on Development Sites.
- All offsets must be obtained before any vegetation is removed, works commence and prior to the certification of the plan of subdivision. For example any vegetation retained on a lot of less than 0.4ha is required to be completely offset.

d) Removed

- The vegetation is removed at the time of the development.
- All offsets must be obtained before any vegetation is removed, works commence and prior to the certification of the plan of subdivision.

6.14. Offset Reserve

A Conservation Reserve which has specific on-title improvement and management requirements to compensate the environment for the loss of native vegetation.

6.15. Victorian Native Vegetation Permitted Clearing Regulations

A set of regulations (Permitted clearing of native vegetation – Biodiversity assessment guidelines) which assist with determining the impact of

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applications under clauses 52.16 and 52.17 of the Hume Planning Scheme on state significant biodiversity values.

6.16. Remnant Patch

A remnant patch of native vegetation is either:

- an area of vegetation where at least 25 per cent of the total perennial understorey plant cover is native
- any area with three or more native canopy trees where the canopy foliage cover is at least 20 per cent of the area.

6.17. Scattered Indigenous Trees

A scattered tree is a native canopy tree that does not form part of a remnant patch.

6.18. Section 69 Agreement

An agreement to protect Native Vegetation on freehold land in perpetuity under section 69 of the *Conservation Forest and Lands Act 1987*.

6.19. Specific Biodiversity Equivalence Units

A unit of measurement that calculates the impact of proposed clearance of native vegetation when that clearance will have a significant impact on the habitat of a particular rare or threatened species. The offset must compensate for the removal of that particular species' habitat.

6.20. Trust for Nature Covenant

A Trust for Nature Covenant is a permanent, legally-binding agreement placed on a property's title to ensure native plants and wildlife on the property are protected forever.

6.21. Victorian Native Vegetation Credit Register

The Native Vegetation Credit Register's aim is to improve consistency in the standards for native vegetation credits and transparency in how credits are traded and used across Victoria. This will provide greater certainty for credit buyers that the credits for sale are owned by the credit seller and are suitable to be used as an offset. Local councils can feel confident that credits are not used more than once to meet an offset requirement. The Native Vegetation Credit Register sets minimum standards for security and management of sites used to generate native vegetation credits.

7. RELATED DOCUMENTS

- Hume City Council (2014) Municipal Strategic Statement
- Hume City Council (2007) Social Justice Charter
- Hume City Council (2009-2013) Pathways to Sustainability
- Hume City Council (2010-2015) Open Space Strategy
- Hume City Council (2011-2015) Natural Heritage Strategy
- Hume City Council Land and Biodiversity Strategy 2015-2019 (draft)
- Hume City Council (2014) Hume Horizons 2040
- Hume City Council (2015) Draft Guidelines for the Planning, Design and Construction of Open Space

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- State of Victoria: Port Phillip and Westernport Catchment Management Authority (2014 - Draft)

8. Legislation

- Commonwealth of Australia (1999) *The Environment Protection and Biodiversity Conservation Act*
- State of Victoria (1988) *Flora and Fauna Guarantee Act*
- (1987) Conservation Forest and Lands Act
- State of Victoria (1987) Planning and Environment Act
- State of Victoria (2013) Victoria's Permitted Clearing Regulations

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