



Department of
Environment and Conservation

Environmental Protection Act 1986

Native Vegetation Offsets

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Offsets: a mechanism to reduce loss

Section 51I(2) of the *Environmental Protection Act 1986* contains provisions for imposing offsets.

(b) establish and maintain vegetation on land other than land cleared under the permit in order to offset the loss of the cleared vegetation, or make monetary contributions to a fund maintained for the purpose of establishing or maintaining vegetation

(c) give a conservation covenant or agreement to reserve under section 30B of the Soil and Land Conservation Act 1945, or some other form of binding undertaking to establish and maintain vegetation, in relation to land other than land cleared under the permit

Offsets are positive actions aiming to conserve certain values to compensate for the loss of similar value, and are not a mechanism to be negotiated during the assessment of a proposal to make an otherwise unacceptable proposal appear acceptable.



Policy and procedure

Native Vegetation Conservation Branch has prepared a draft policy that outlines DEC's requirements for native vegetation offsets in relation to the granting of clearing permits and undertakings.

A draft guide intended for online publication has been prepared to assist proponents with determining the need for offsets.

An internal Branch procedure has been prepared to ensure a consistent approach to the assessment of the suitability of offset proposals for incidences of clearing.

During 2010 an evaluation of the effectiveness of decision making (including effectiveness of / compliance with offset conditions) will be undertaken by the Branch's Strategic Development Section.



Policy and procedure (cont')

Offsets are imposed in three ways ...

- **Inclusion of a standard offset condition on a clearing permit, with a requirement that an offset proposal to be submitted to DEC's CEO for approval prior to undertaking clearing.**
- **Grant of an 'agreement in principle' with advice that an offset is required, and when an acceptable offset proposal is received the format of the offset and its criteria for success are included as a condition on the clearing permit.**
- **Inclusion of a specified format of offset on a clearing permit, such as a covenant or off-site revegetation to a specified standard, with a requirement that it be implemented within a specified timeframe.**



What needs to be offset?

The requirement for offsetting and the nature of the offset required is determined once assessment of proposed clearing is complete.

Some situations where offsets may be required ...

- **critical assets / environmentally sensitive areas;**
- **conservation areas;**
- **high value wetlands;**
- **critical habitats; and**
- **extensively cleared vegetation associations.**



Determination of offsets

Determination of offsets ...

- **If part or all of the proposed clearing is or may be at variance with one or more of the clearing principles (reasons stated in the decision report) then the permit holder may be required to implement an offset with respect to that native vegetation.**
- **In determining the offset to be implemented, the permit holder must have regard to the offset principles.**
- **Each offset proposal must include a direct offset and timing for implementation, and may include contributing offsets.**



The clearing principles

Applications for clearing permits are assessed against ten clearing principles in Schedule 5 of the *Environmental Protection Act 1986*:

- **high level of biodiversity;**
- **significant habitat for indigenous fauna;**
- **habitat for rare flora;**
- **habitat for threatened ecological communities;**
- **significant as a remnant in extensively cleared landscape;**
- **environments associated with wetlands or watercourses;**
- **result in appreciable land degradation;**
- **impacts on conservation areas;**
- **impacts on surface or underground water; or**
- **impacts on incidence or intensity of flooding.**



The offset principles

A permit holder must have regard to twelve offset principles:

- **direct offsets to directly counterbalance loss of vegetation;**
- **contributing offsets to complement / enhance direct offset;**
- **offsets implemented as a last resort;**
- **environmental values to be at least equal to those cleared;**
- **a ratio greater than 1:1 applied to allow for possible failure;**
- **robust and consistent assessment process;**
- **consider values / functions of vegetation to be cleared;**
- **'no net loss', preferably net gain and improvement;**
- **must satisfy all statutory requirements;**
- **must be clearly defined, documented and audited;**
- **must ensure a long-term (10-30 year) benefit; and**
- **an environmental specialist to be involved in offset process.**



Developing an offset proposal

Onus on permit holder to determine suitable offset for the clearing proposed. A suitable offset proposal must not include:

- **actions that would readily be implemented in the absence of the project;**
- **actions that are normal on-site environmental management requirements for the project; or**
- **actions that comprise part of the environmental management measures for another project.**

Cost of implementing the offset proposal should be considered by the permit holder, particularly for habitat recreation or restoration:

- **land purchase / vesting / tenure;**
- **equipment / labour, preparation, vegetation establishment, monitoring and remedial actions to ensure success;**
- **long-term commitment to management.**



Direct offsets

Four formats ...

- **Restoration** has the goal of improving an existing ecosystem (e.g. 'good' or better condition) to near pre-impact condition.
- **Rehabilitation** has the goal of improving / enhancing an existing high value ecosystem (e.g. 'degraded' or better condition) and re-instating some of its functions.
- **Re-establishment** (revegetation) has the goal of re-establishing a functioning ecosystem with strategic environmental benefit (e.g. 'completely degraded' condition).
- **Acquiring land for conservation** consists of purchasing the offset site and transferring the land title into the conservation reserve system, or alternatively (but of lesser value) establishing covenants or legal tenure agreements.



Contributing offsets

Numerous formats ...

- **Protection**
- **Removal of threats**
- **Management**
- **Banking, credit or trust fund (currently not an option)**
- **Education**
- **Research**
- **Other actions, e.g. development of innovative approaches aimed at improving environmental outcomes.**

Enforcement

The implementation and success of offsets must be monitored to ensure compliance with clearing permit conditions. The permit requires the permit holder to keep records and report annually on:

- **the location of any area of offsets recorded (using GDA 1994);**
- **a description of the offset activities undertaken; and**
- **the size of the offset area (in hectares).**

Penalties for non-compliance ...

- **Unlawful clearing: individual \$250,000 or body corporate \$500,000;**
- **Breach of clearing permit condition: individual \$62,500 or body corporate \$125,000.**



Case study 1 - land acquisition

A proponent applied to clear 13 hectares of native vegetation impacting on:

- **11 hectares within State Forest; and**
- **2 hectares within Bush Forever sites (critical assets):**
 - **0.4 hectares of Cottesloe Complex (central and south);**
 - **0.8 hectares of Karrakatta Complex (north); and**
 - **0.8 hectares of Karrakatta Complex (central and north).**

Assessment of the application determined that the clearing was:

- **'at variance' with clearing principle (h); and**
- **'may be at variance' with clearing principle (a).**

A clearing permit was granted with a condition to offset the loss of vegetation within the Bush Forever sites (note: State Forest is not a critical asset / environmentally sensitive area in its own right).



Case study 1 (cont')

The proponent submitted an offset proposal that included 'acquiring land for conservation' within the same bioregion as the direct offset.

- **Option 1: cede for conservation an intact 2 hectare vegetated parcel of land containing Karrakatta Complex – Central and North (specifically 'like for like').**
- **Option 2: purchase and cede for conservation an unfenced 4 hectare threatened ecological community (critical asset) in private ownership (broadly 'like for like' in terms of critical assets present).**

Second option approved – greater environmental benefit than first option, 'no net loss' demonstrated by 1:2 offset ratio and protection of potentially threatened (by grazing) ecosystem.

Case study 2 - specified format

A proponent applied to clear approximately 7 hectares of native vegetation, impacting on:

- **high biodiversity values, adjacent to a Bush Forever site;**
- **significant habitat for Quenda (priority 5) and other fauna, and likely to provide habitat for Carnaby's Black-Cockatoo (threatened); and**
- **floristic community type present is consistent with a threatened ecological community (potential critical asset).**

Assessment of the application determined that the clearing was:

- **'at variance' with clearing principles (a), (b) and (d); and**
- **'may be at variance' with clearing principles (g), (h) and (i).**

A clearing permit was granted with a condition to offset these impacts.



Case study 2 (cont')

The conditions imposed on the clearing permit included:

- **revegetate / rehabilitate a specified (adjacent) area of native vegetation, being land other than land cleared under the permit ('rehabilitation' / 're-establishment' direct offset);**
- **give a *Soil and Land Conservation Act 1945* conservation covenant over the specified area ('land acquisition' direct offset or 'protection' contributing offset); and**
- **construct a fence around the perimeter of the specified area ('protection' contributing offset).**

No net loss' and 'like for like' achieved through 1:4 offset ratio and management of similar vegetation type in close proximity.



Case study 3 - offset banking

A proponent applied to clear about 50 hectares of native vegetation along a 180 kilometre alignment, impacting on:

- **vegetation complexes with 30% or less extent remaining in a bioregion (critical assets);**
- **significant wetlands (critical assets); and**
- **DEC-managed conservation estate (critical assets).**

Assessment of the application determined that the clearing was:

- **'at variance' with clearing principles (e), (f) and (h); and**
- **'may be at variance' with clearing principles (a), (b), (c), (g) and (i).**

A clearing permit was granted with a condition to offset these impacts.



Case study 3 (cont')

The proponent submitted an offset proposal that included 'acquiring land for conservation' within the same bioregion as the direct offset.

- Purchase and cede to DEC 1,500 hectares of 'good' or better condition native vegetation comprising an under-represented vegetation association (critical asset) in the same bioregion, of which 150 hectares offsets this proposal (broadly 'like for like' in terms of critical assets present).**

Option approved – 'no net loss' demonstrated by 1:3 offset ratio and protection of potentially threatened (by grazing) ecosystem.

The balance (1350 hectares) of the site is 'banked' for future proposals in the same bioregion impacting on similar values.



Case study 4

A proponent applied to clear approximately 25 hectares of Banksia woodland in predominantly ‘very good’ condition, impacting on:

- **significant habitat for Carnaby’s Black-Cockatoo (threatened), Quenda (priority 5) and other fauna; and**
- **vegetation type that is likely in 2009 (assessment based on ‘current’ 1998 data) to have 10% or less extent remaining in a constrained area of the Swan Coastal Plain bioregion (critical asset).**

Assessment of the application determined that the clearing was:

- **‘at variance’ with clearing principles (a) and (b); and**
- **‘may be at variance’ with clearing principles (c), (f), (h) and (i).**

As the proposal was for a wider public benefit, a clearing permit was granted with a condition to offset impacts.



Case study 4 (cont')

The proponent submitted an offset proposal that included 'rehabilitation' / 're-establishment' and 'acquiring land for conservation' as the direct offset.

- **Option 1: revegetation and rehabilitation of 60 hectares within DEC-managed Beelihar Regional Park.**
- **Option 2: provide \$250,000 to DEC towards the purchase of 44.5 hectares of predominantly 'excellent' condition Wandoo woodland in private ownership.**

Second option approved – immediate success of offset (compared with rehabilitation / re-establishment). However 'no net loss' and 'like for like' could be better demonstrated.



Case study 5

A proponent applied to clear within an area of revegetation established within a nature reserve (critical asset) in the Midwest Region.

A clearing permit was granted, however an offset condition was not imposed because the revegetation was not consistent with the under-represented vegetation types for the area.

An offset condition should have been imposed for two reasons:

- the proposed clearing occurred within a nature reserve (critical asset); and**
- the pre-clearing vegetation types which the revegetation sought to replace after mining has less than 30% of its pre-clearing extent remaining in the bioregion (critical asset).**



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Thank you for listening!

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