



# **SUPPLEMENTARY BUSINESS PAPER**

**(Late Item Memo – Item 8,  
Mayoral Minute MM21/18)**

## **GENERAL MEETING**

**Wednesday 12 September 2018  
at 6:30PM**



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**ITEM 8**      **EH16/18 - Review of Policies - Environment and Human Services Division**

<i>Additional information with NO CHANGE to Recommendation</i>
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Council's Green Offsets Code (the 'Code') was first implemented in Hornsby Shire in 2008 and has been reviewed every 2-3 years since. The current Code was updated and adopted in 2015 and noted for review in 2018. This review has included legislative and planning control changes and improved data availability. Further, in undertaking this review consideration was given to the historical implementation of the Code with the intent of maintaining existing principles, seeking improved environmental outcomes and providing greater clarity on the process of implementing the Code.

Importantly application of the Code takes place after the development (or permit) assessment process has been undertaken taking into account the biodiversity conservation principles of 'avoid, minimise and mitigate'. In cases where the environmental impacts are assessed as being too great, the development application is recommended for refusal on environmental grounds.

In other cases where following the assessment process, there still remains a residual environmental impact which on merit is not deemed to be sufficient to result in a recommendation for refusal, the Code would apply and seek to locally mitigate this residual impact. The principle of 'net gain' as outlined in the Code, would be applied seeking to improve the condition of the environment and biodiversity values.

In submissions relating to Group Manager's Report No. EH16/18, a number of community concerns have been raised and the following advice is provided.

**Vegetation Mapping**

The existing Code uses a Conservation Significance Assessment (CSA) Map which was produced in 2008. The CSA map has grouped various patches of vegetation into complex categories to which various offset multipliers are applied.

The CSA Map categories often split one vegetation community into several categories based on patch size. For example Blue Gum High Forest is represented in Core-Regional, Core-Local and Remnant EEC trees categories with different offset multipliers of 8, 6 & 5 respectively.

In 2017 Council updated the vegetation map of Hornsby Shire using improved aerial imagery to define the extent of each vegetation patch whilst maintaining consistent community descriptions and their conservation significance with the previous vegetation mapping by Smith & Smith (2008). Having regard to the updated and more accurate mapping it was considered to be beneficial to provide a consistent application of the Code to each vegetation community by assigning a single offset multiplier irrespective of patch size. As such, the offset multipliers now apply to all stands of vegetation and remnant trees of comparable vegetation community type.

The list of vegetation communities in Hornsby Shire and their relative conservation significance are shown in Appendix 1 of the proposed 2018 Code.

### **Legislation**

Recent changes to legislation and planning policies including the repeal of the Threatened Species Conservation Act 1995 and changes to the Environmental Planning and Assessment Act 1979 have required a simple amendment to their references in the Code.

The enactment of the Biodiversity Conservation Act 2016 has introduced the Biodiversity Offset Scheme (BOS) to the development application process. The BOS is applied after the development assessment process as a means of offsetting impacts on biodiversity values. Offsetting through BOS primarily requires the retirement of biodiversity credits. These credits may be associated with a stewardship site that is located outside of the Hornsby Local Government Area and therefore does not provide an offset benefiting local biodiversity.

To ensure a greater proportion of offsets are retained in the local area, Council as the consent authority, is permitted to request a greater number of credits be retired locally. This can only be achieved with suitable justification. The Code provides Council the ability to provide such justification and hence can be used to ensure more local offsets are obtained.

### **Variation rules**

At times, the stringent application of the existing Code has proven problematic on constrained sites. In response to the impracticality of its implementation on certain sites, Council has in some cases allowed variations to the offset requirements. Consideration to the variations has been based on the locations and conditions of a site where trees could be planted and the likelihood that a tree could grow to maturity.

Historically in certain circumstances, for example, it would be impractical to require an applicant to replace 1 tree with 8 trees. As a result where Council assessed it to lead to improved environmental outcomes than would otherwise be achieved, the offset requirements have been varied to require a reduced number of trees with additional shrub and understorey planting to create a vegetation community.

This approach has enabled an offset to be established on the subject site where it might otherwise not occur. Note, the offset multiplier would be doubled for each drop in vegetation strata used in this offset package.

To reflect the existing application and to address this flexibility in its application, a new section on the variation rules has been included in the proposed 2018 Code. In applying a variation, as permitted by the Code, a minimum number of trees is required as noted in Table 3 and demonstrated in examples 5 & 6.

It is important to note that whilst provisions have been included to provide Council with some flexibility to secure local offsets on the subject site, Council is not bound to accept variations to the proposed 2018 Code that would result in environmental outcomes assessed by Council's Natural Resources Branch as being unacceptable.

### **Clarity**

The implementation of the Code, specifically for Voluntary Planning Agreements (VPA), has often been protracted due to the complexity of the document and its application. In reviewing the Code consideration was given to improving the document clarity by removing repetitive elements and those covered by overarching legislation. Detailed references to VPA's have been removed (with notation

given to the Department of Planning website for further details) as they fall under the provisions of the Environmental Planning and Assessment Act 1979. A VPA is permitted under clauses 7.4 & 7.5 of the EP&A Act and public exhibition periods are legislated within the Act regardless of any statements made in the Code.

Reference to performance guarantees were included within previous versions of the Code. These guarantees were offered as a complementary requirement for developers. However, as there is no legal mechanism for their implementation on private land, their mandatory enactment was not possible.

### **Development Control Plan**

It should be noted that the application of the Code only occurs after the development (or permit) assessment process has been undertaken. The Hornsby Local Environment Plan and Development Control Plan provide the core local prescriptive measures for biodiversity conservation. In addition the EP&A Act and BC Act require consideration of various environmental factors when assessing an application. All of these controls employ the biodiversity conservation principles of 'avoid, minimise and mitigate'.

In cases where the environmental impacts are assessed as being too great, the development application is recommended for refusal on environmental grounds.

It is this last principle 'mitigate', for which offsetting may be considered. This only occurs after the proposal has been assessed and has been deemed for approval. The Code should therefore be seen as a supporting document to these other controls and is a means to enable Council staff to require offsetting for impacts on biodiversity.

### **RECOMMENDATION**

THAT Council adopt the recommendations contained in the table in Group Manager's Report No. EH16/18 in respect of each of the current policies under the jurisdiction of the Environment and Human Services Division.

STEPHEN FEDOROW  
Group Manager  
Environment and Human Services Division

### **Attachments:**

There are no attachments for this report.

File Reference: F2013/00129  
Document Number: D07522085

**18 RECOGNITION OF CHERRYBROOK AND CULTURE CENTRE VOLUNTEER MANAGEMENT COMMITTEE**

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The Cherrybrook Community and Cultural Centre was officially opened on 20 July 1991 by the then President of Hornsby Shire Council, Nan Horne.

The Centre is well utilised by a variety of community and cultural groups hosting regular activities and classes and it is also very popular for special events and community celebrations.

During August 2018, the Volunteer Management Committee for the Centre contacted Council and formally tendered their resignation after many years of dedicated service. The Committee expressed their satisfaction having achieved so much over their period of tenure and leave with many happy memories.

This Mayoral Minute therefore seeks to formally recognise the more than 25 years of service that the Cherrybrook Community and Cultural Centre Volunteer Management Committee have provided to the Cherrybrook Community. I wish to extend Council's thanks and appreciation to the outgoing committee and in particular, thank the long standing members Gwen Bitti (Chairperson), Nan Horne, Doug Menzies and Barbara Owen for their many years of service.

**RECOMMENDATION**

THAT:

1. Council formally extend its thanks to the members of the Volunteer Management Committee who have provided an exceptional service to the users of the Cherrybrook Community and Cultural Centre.
2. In consultation with the outgoing Committee, Council hosts an informal gathering for the volunteers in celebration of their many years of service to the community.

The Honourable Cr PHILIP RUDDOCK

Mayor

**Attachments:**

There are no attachments for this report.

File Reference: F2004/06405-008

Document Number: D07507838