

Case study: Tweed Shire Biodiversity Development Control Plan

COUNCIL NAME

Tweed Shire Council

WEB ADDRESS

tweed.nsw.gov.au

SIZE

1,321 square
kilometres

POPULATION

91,371

Overview

Tweed Shire Council's recently adopted Biodiversity and Habitat Management Development Control Plan (DCP) addresses the complex interaction between the *Environmental Planning and Assessment Act 1979* and the *Biodiversity Conservation Act 2016* (BC Act) by providing clear guidance on the types of habitat that should be retained, addressing the management of ongoing impacts associated with development. This clarity facilitates more efficient and effective development planning that is responsive to the community aspirations and the unique environment of the Tweed.

Background

With the commencement of the BC Act in August 2017, it became evident that Council required a clear policy position on how proposed development should address impacts on biodiversity. Specifically, under s7.13 of the BC Act, Council must determine what impacts on biodiversity must be "avoided or minimised" prior to allowing any biodiversity offsets. The BC Act sets up the Biodiversity Offset Scheme but essentially leaves decisions around what should be "avoided or minimised" to councils. Without a clear policy to provide guidance on this issue, there is a high risk that proponents will propose development, including seeking offsetting solutions under the BC Act which may not provide a locally-acceptable environmental outcome.

Implementation

The Biodiversity DCP aims to ensure that, subject to NSW or Commonwealth legislation, the planning and design of new development maintains or improves ecological values within Tweed Shire through:

- retaining and restoring native vegetation and habitats in patches of a size and configuration that will enable existing plant and animal communities to survive in the long term
- providing development controls to prevent the degradation of ecological values
- providing guidance on information required to enable informed decision-making
- use best practice standards for construction and operational impacts of development
- providing guidance on measures to avoid or minimise the impact of proposed development
- compensating for unavoidable habitat losses in accordance with legislation, or in the absence of such legislation, contemporary best practice.

The DCP takes a three-stage approach to guide the preparation of development applications (DAs). The first stage focusses on aspects of biodiversity with the potential to influence the shape and form of the development footprint.

The second stage involves specific objectives and development controls that address potential construction and ongoing impacts of the development itself. Examples include biodiversity impacts arising from roads, fencing and barriers, noise and lighting, pest animals, domestic animals, and environmental weeds.

The final stage involves collation of the necessary information to allow Council to appropriately assess the DA. The draft plan has minimum assessment requirements for conforming development. This should mean considerable cost savings for proponents of developments with low potential impact.

Outcomes

The Biodiversity DCP was adopted in August 2018 providing clear guidance on biodiversity to be retained (avoided) and requirements of formal protection and ongoing management of areas affected by the proposed development. Other achievements of the DCP include:

- a focus on larger-scale development which means proponents no longer need to commission expensive ecological assessments for minor, small-scaled DAs
- covers all relevant aspects of biodiversity not just threatened species
- encourages discussions with Council officers prior to submitting their applications
- provides clear guidance on assessment pathways under the EP&A and BC Acts
- supports environmental provisions of Council's Local Environmental Plan
- clarifies the application of ecological setbacks, buffers and bushfire asset protection zones
- provides considerable technical support to assist proponents and worked scenarios
- streamlines assessment requirements for development that comply with standard controls
- promotes alternative outcomes to meet biodiversity planning principles.

Key Learnings

While the DCP has been operational for less than a year, proponents are interested in discussing ideas prior to committing to expensive studies and plans. Council officers can identify with the proponent any challenges early in the process, and work on alternative development layouts, to assist with an approval.

Contact

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Photo credit: Tweed Shire Council, Murwillumbah, NSW.

This project was the 2019 winner of the Innovation in Planning, Policies and Decision Making Award at the LGNSW Excellence in the Environment Awards