



Biodiversity Council

Submission to the Sydney Region Growth Centres extension of biodiversity certification

18 May 2026

About The Biodiversity Council

The Biodiversity Council brings together leading experts including Indigenous knowledge holders to promote evidence-based solutions to Australia's biodiversity crisis. The Council was founded by 11 universities with the support of Australian philanthropists.



Introduction

The Biodiversity Council welcomes the opportunity to provide feedback on the proposed extension of the biodiversity certification of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

Our understanding

The Biodiversity Council understands that the State Environmental Planning Policy (Sydney Region Growth Centres) ('Growth Centres SEPP') established the broad framework for development of the Growth Centres over the next 25 to 30 years. This included an "offset program" - a package of specific measures intended to compensate for impacts on biodiversity from urban development.

Biodiversity certification

In December 2007, the NSW Minister for the Environment [conferred biodiversity certification on the Growth Areas SEPP](#) under s. 126 G of the *Threatened Species Conservation Act 1995* (NSW).

Biodiversity certification helps speed up the development application process by removing the need for site-by-site threatened species assessments. It is intended to provide greater certainty for developers and improved conservation outcomes for the community.

The certification requires certain conditions to be met in regard to protection of existing biodiversity values and offsetting impacts, including that:

- 2,000 hectares of existing native vegetation within the Growth Centres be retained and protected from development
- surveys be undertaken for eight threatened plant species and Green and Golden Bell Frog and sites where they are found be protected
- a conservation fund be established to fund protection of high biodiversity value outside of the Growth Areas as offsets for clearing, most notably 2,400 ha of woodlands on the Cumberland Plain.¹

The certification expired 30 June 2025. On 6 June 2025, the Minister for the Environment signed an [order extending biodiversity certification of the Growth Centres for one year](#) until 30 June 2026 to enable a review of the biodiversity certification.

The Minister may extend the certification for a period of up to ten years, however before this can occur, the Minister must review the Growth Centres EPIs to take account of any new listing of a species, population or ecological community or the discovery of a species,

¹ These are the Cumberland Plain Shale Woodlands and Shale Gravel Transition Forest that are listed as critically endangered under the *Environment Protection and Biodiversity Conservation Act 1999*. The Growth Centres developed is expected to lead to the loss of 1,187 ha of this community (Approximately 11% of the total distribution of the community).

population or ecological community (to be collectively referred to as threatened entities) not previously known in an area.

The Minister for the Environment is proposing an extension to 2035.

Funding

In 2007, the NSW Government established a \$530 million conservation fund package (subject to indexing) to offset biodiversity impacts from developments in the North West and South West growth centres. This included \$397.5 million over 30 years to deliver an offset program outside the growth areas. The remaining funds were intended to be used for acquisition of specific areas in the growth areas identified under the certification.

The funding was to be sourced from a special infrastructure contribution (SIC) applying to development in the growth areas. In 2009, however, the reduction in recoverable costs through state contributions from 75 per cent to 50 per cent generated a funding shortfall, which is currently borne by taxpayers.²

In 2020, the [Productivity Commission released its Review into Infrastructure Contributions in NSW](#). It recommended the adoption of a biodiversity contribution for areas subject to biodiversity certification on the basis that “biodiversity costs will be contained within—but funded equally from—that area”. The NSW government has been progressively implementing the Productivity Commission’s recommendations. The “[strategic biodiversity component](#)” for the Cumberland Plain Conservation Plan started on 1 July 2024 and applies to new developments on land that has been biodiversity-certified. It is intended to operate on a full cost-recovery basis capturing acquisition and delivery costs for the offset program and other conservation measures. However, the strategic biodiversity component has been discounted in the first 2 years until July 2026.

The offset program is funded on an annual basis depending on the number of housing lots developed. Total funding received by the program by 2025 was \$114.6 million (in 2005–06 dollar values).

New threatened species in the Growth Areas

As noted above, before the Minister can extend the certification they must take account of any new threatened species or ecological community in the Sydney Growth Areas - either those that were previously considered unthreatened but are now listed, or those that were not previously recorded in the area.

²

<https://www.nsw.gov.au/sites/default/files/noindex/2025-09/infrastructure-contributions-review-final-report.pdf#page=103>

In May 2025, the NSW Department of Climate Change, Energy, the Environment and Water prepared a report³ noting the six newly listed flora species and 14 newly listed fauna species with potential habitat in the Sydney Growth Areas. The department also searched species records and identified six species “for consideration within the Growth Centres”.

Four of the newly listed plant species have highly restricted distributions and low population sizes:

- [*Hibbertia sp. Bankstown*](#) is critically endangered at both a State and Federal level. It is currently known from only one population.
- [*Hibbertia fumana*](#) is critically endangered at a State level. It was originally known from only one site but further surveys have identified new locations. The population consists of approximately 370 individuals. One of its known threats is “Loss of the existing habitats across much of the distribution has occurred and may occur for as-yet-missed populations of the species”.
- [*Julian's Hibbertia \(Hibbertia spanantha\)*](#) is critically endangered at both a State and Federal level. It has a highly restricted geographical distribution, and only a small number of mature individuals known from a limited number of populations.
- [*Bauer's Midge Orchid \(Genoplesium baueri\)*](#) is endangered at both a State and Federal level. Currently the species is known from just over 200 plants across 13 sites. A known threat is “urban, rural residential and infrastructure development.”

The department recommended that further actions were required to improve the protection of threatened species in the Growth Areas and outlined seven options covering one or more of the following:

- protecting additional land through acquisition or zoning changes
- strengthening controls on native vegetation clearing within development areas
- improving tree retention and planting.

Our position

The Biodiversity Council is very concerned that the conditions on the original biodiversity certification have not been met and there is a shortfall in delivery of offsets. Poor delivery and underfunding of offsets is a common problem across Australia and NSW is no exception.⁴

³ Only available by request, not publicly available.

⁴ Henry, K., Keniry, J. Leishman, M. and Mrdak, M. (2023) Statutory Review of the Biodiversity Conservation Act 2016. *Final Report*

<https://www.parliament.nsw.gov.au/tp/files/186428/Independent%20Review%20of%20the%20Biodiversity%20Conservation%20Act%202016-Final.pdf>

Independent Pricing and Regulatory Tribunal NSW (2024) *Biodiversity Credits Market Monitoring Annual Report 2023-24*, December 2024.

https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Annual-Report-2023-24-Biodiversity-Credits-Market-Monitoring-December-2024.PDF

It is our position that extending certification for nine years without strengthened delivery mechanisms would entrench the shortfall rather than fix it.

We recognise that there is a genuine housing supply need in the North West and South West growth centres, and that letting certification expire without transition would create a planning vacuum. However, there are key issues that must be resolved before a nine-year extension is granted. It may be appropriate for a further one-year extension to be granted to allow work to be completed to ensure impacts on biodiversity are effectively managed moving forward (see Recommendation 4, below). The extension must be accompanied by significantly strengthened mechanisms to ensure the offset commitments are actually delivered.

Key concerns and specific recommendations to address them are described below.

Key concerns

1. Clearing is outpacing offset delivery

The [2024–25 annual report](#) states that:

“While the offset program continues to deliver conservation outcomes outside the growth centres, it is no longer keeping pace with the rate of impacts from development. This annual report for 2024 –25 shows that biodiversity offsets secured by the program are below target and that the clearing of native vegetation within the growth centres is increasing.”

The annual report shows that clearing is outpacing offsetting approximately 3:1.

The program had \$17.1 million available for offset program expenditure, but only \$3 million was spent. This under-utilisation is striking even allowing for the credits committed to 2025–26. Every year offset funds remain underspent, their purchasing power for on-ground projects diminishes.

Analyses of offset funds around Australia, including in New South Wales, Western Australia, South Australia and Queensland, have shown that the amount of money in offset funds does not cover the costs of acquisition or restoration resulting in offset obligations not being met. The underspend in the offset program may be an indicator that there is limited availability of ecologically equivalent offsets.

Recommendation 1: The Biodiversity Council recommends greater upstream avoidance (retention of more vegetation within the growth centres) given that the offset mechanism is demonstrably not delivering at the required rate.

Recommendation 2: The Biodiversity Council recommends pausing urban development when the rate of clearing to offsets exceeds a specific margin in any given year. This will incentivise sourcing of offsets.

2. There is a shortfall in delivery of offset for Cumberland Plain woodlands

The annual report shows that only 17.7% (425 ha of 2,400 ha) of the Cumberland Plain Woodland target has been achieved after 17 years of a 30-year program. A pro-rata trajectory would be closer to 57%. This is deferring costs to the later stages of a project which increases risk of delivery failure as offsets that can meet the requirements become more scarce and/or more expensive. This exacerbates the inadequate funding problem.

Recommendation 3: The Biodiversity Council recommends binding interim milestones for the Cumberland Plains Woodland Target with annual public reporting against them.

3. There appears to be no plan to protect the new threatened species found in the Growth Areas

No information has been provided about whether any changes have been, or are proposed to be made to address NSW Department of Climate Change, Energy, the Environment and Water's concerns that improvements are needed to ensure biodiversity is adequately protected. Conservation strategies for these species are urgent but no plan has been publicly released. The analysis report of new threatened species found in the Growth Areas is not even publicly available.

Recommendation 4: The Biodiversity Council recommends that the NSW government publish an implementation plan outlining which options proposed by NSW Department of Climate Change, Energy, the Environment and Water will be adopted to protect the 'new' threatened species, including timing and funding arrangements.

4. The minimum retention requirement for native vegetation is not being met

The biodiversity certification requires a minimum of 2,000 ha of existing native vegetation to be retained and protected in the growth areas. At the time of certification 1,980 ha was protected, but this is now down to 1,964 ha, with 4.2 ha of native vegetation within protected lands cleared in 2024-25, alone.

Recommendation 5: The Biodiversity Council recommends that the NSW government develop a specific “make good” plan to ensure a minimum of 2,000 ha of native vegetation is retained in the growth areas. The biodiversity certification should not be extended without a plan to restore compliance.

5. Poorly designed cost recovery programs risk biodiversity outcomes

The collection of biodiversity contributions from particular development areas to fund offset actions on a cost-recovery basis is not new. Melbourne’s Strategic Assessment (MSA) has used a “habitat compensation fee” model since 2013 to fund program implementation. It would be useful to consider how learnings from the experience of implementing the MSA scheme could be applied to the design and implementation of the NSW biodiversity contributions scheme.

Firstly, there are issues with tying offset program funds to development. The [Commissioner for Environmental Sustainability’s audit](#) into the MSA found that a slow-down in land development in Melbourne’s south-eastern growth area resulted in a reduction in levy allocated conservation actions for southern brown bandicoot (*Isodon obesulus*).

Secondly, implementing full cost recovery is challenging. The [Victorian Auditor General’s Office audited the MSA](#) in 2020. It found that for the first seven years of the cost recovery program (2013-2020) the revenue generated did not keep pace with program costs, with the fees only covering 43% of program delivery. This meant that the Victorian government failed to deliver on its commitments to deliver its two largest conservation areas - the Western Grasslands Reserve and Grassy Eucalypt Woodland Reserve by 2020. The audit notes that early acquisition may have better preserved the ecological condition of the areas proposed to be reserves. In 2020, new Victorian legislation came into effect that was intended to ensure that the MSA program was fully cost-recovered. The legislation uses two indices to adjust fees and requires the cost base to be reviewed every 5 years. Despite this the audit found that:

“While the MSA Act appears to address the above revenue risks, the financial risks associated with increased land values and landowners’ willingness to sell will continue to affect program delivery.”

Challenges with designing and implementing cost recovery programs are not unique to the MSA. The [Australian National Audit Office reviewed cost recovery programs](#) at four Federal agencies in 2019. It found that there was significant misalignment between revenue and expenses and that some agencies needed to be “more proactive in addressing structural over- and under-recovery” of cost-recovered activities. Moreover, it found that formal reviews of cost-recovery arrangements every 4-5 years were insufficient at addressing this problem.

It is imperative that the cost recovery arrangements for the new biodiversity contributions scheme are right. Full cost recovery requires precise identification of delivery costs to determine the cost base. If the cost base is estimated too low then this will mean that the biodiversity contributions charge will be set too low and there won't be enough money to fully deliver the offsets program.

Recommendation 6: The Biodiversity Council recommends that the NSW government develop a transparent and robust biodiversity contributions scheme that includes:

- a) developing a transition plan for the change from the special infrastructure contribution to the biodiversity contributions scheme to ensure that funding flow and offset delivery are not disrupted, and that the new Strategic Biodiversity Component is at least as strong as what it replaces.***
- b) developing and publishing an annual [Cost Recovery Implementation Statement](#) (or equivalent)***
- c) annual reporting against the [Cost Recovery Implementation Statement](#) (or equivalent)***
- d) formal comprehensive review of the cost base for the biodiversity contributions scheme every 3 years.***

Recommendation 7: The Biodiversity Council recommends that the NSW government publicly report on environmental outcomes through the program aligned with the principles in [Kujala et al. \(2022\)](#), including: project-level data on condition outcomes at stewardship sites, counterfactual assumptions, and independent verification.

Recommendation 8: The Biodiversity Council recommends an independent five-yearly review be a condition of the extension of biodiversity certification comparable to what applies under the Cumberland Plain Conservation Plan⁵ (the current program has no equivalent mechanism).

⁵ See condition 13 in the [Order conferring strategic biodiversity certification for the Cumberland Plain Conservation Plan](#) which requires an independent review of implementation of the proposed conservation measures every 5 years.