

E10.0 Biodiversity Code

E10.1 Purpose

E10.1.1 The purpose of this provision is to:

- (a) minimise loss of identified threatened native vegetation communities and threatened flora species;
- (b) conserve identified threatened fauna species by minimising clearance of important habitat and managing environmental impact;
- (c) minimise loss of other biodiversity values that are recognised as locally significant by the Planning Authority;

E10.2 Application

E10.2.1 This code applies to development involving clearance and conversion or disturbance of native vegetation within a Biodiversity Protection Area.

E10.3 Definition of Terms

In this code, unless the contrary intention appears;

Biodiversity Protection Area	means the area to which this code applies, as shown on the planning scheme maps.
biodiversity offsets	means measures that compensate for the residual adverse impacts of an action on the environment, when: <ul style="list-style-type: none"> (a) alternatives and options to avoid those impacts have been exhausted; (b) it is still considered desirable for other economic, social or environmental reasons for the action to proceed.
clearance and conversion	means the process of removing native vegetation from an area of land and: <ul style="list-style-type: none"> (a) leaving the area of land, on a permanent or extended basis, in a state predominantly unvegetated with native vegetation; or (b) replacing the native vegetation so removed, on a permanent or extended basis, with residential, commercial, mining, agriculture or other non-agricultural development.
disturbance	means the alteration of the structure and species composition of a native vegetation community through actions including cutting down, felling, thinning, logging, removing or destroying of a native vegetation community.
natural values determination	means an ecological assessment, generally consistent with the Guidelines for Natural Values Assessment, (DPIPWE July 2009), by a suitably qualified person (biodiversity) to identify and convey: <ul style="list-style-type: none"> (a) the location of priority biodiversity values affecting the site; (b) the significance of priority biodiversity values, with particular reference to Table E10.1;
natural values assessment	means an ecological assessment, generally consistent with the Guidelines for Natural Values Assessment, (DPIPWE July 2009), by a suitably qualified person (biodiversity) to identify and convey: <ul style="list-style-type: none"> (a) the location of priority biodiversity values affecting the site; (b) the significance of priority biodiversity values, with particular reference to Table E10.1; (c) any likely impact on these priority biodiversity values including existing activities on the site, nearby land uses, weeds, pests, pathogens and the degree of connectivity with other land with natural values;

	<p>(d) the likely impact of the proposed development or use on these priority biodiversity values;</p> <p>(e) recommendations for the design and siting of the proposed development or use to avoid or minimise the identified impacts;</p> <p>(f) recommendations for the mitigation or management of any residual impacts.</p>
potential habitat	means all habitat types within the potential range of a threatened flora or fauna species that are likely to support that species in the short and/or long term. It may not include habitats known to be occupied intermittently. Potential habitat is determined from published and unpublished scientific literature and/or via expert opinion, is agreed by the Threatened Species Section, DPIPWE in consultation with species specialists, and endorsed by the Scientific Advisory Committee under the <i>Threatened Species Protection Act 1995</i> .
Previously cleared and converted land	means land: <p>(a) whose owner can demonstrate a history of agricultural or other non-forest land use over a consecutive period of at least 5 years, since 1985, during which the land did not contain trees or threatened native vegetation communities; or</p> <p>(b) that has been cleared and converted in the immediately preceding 5-year period in accordance with a certified forest practices plan or a permit issued under the <i>Land Use Planning and Approvals Act 1993</i>.</p>
priority biodiversity values	means as specified in Table E10.1.
priority species	means non-listed taxa identified in the Tasmanian RFA (Commonwealth of Australia and State of Tasmania 1997, as amended) as requiring some form of protection or further research, non-listed species identified as poorly reserved in Tasmania, type localities and edge-of-range populations.
significant habitat	means native vegetation determined from published scientific literature and/or agreed by the Threatened Species Section (DPIPWE) in consultation with species specialists, and/or endorsed by the Threatened Species Scientific Advisory Committee (TSSAC) as habitat within the known range of a threatened or vulnerable flora or fauna species that: <p>(i) is known to be of high priority for the maintenance of breeding populations throughout the species' range; and/or</p> <p>(ii) if converted to non-native vegetation is considered to result in a long term negative impact on breeding populations of the species.</p>

	It may include areas that do not currently support breeding populations of the species but that need to be maintained to ensure the long-term future of the species.
special circumstances	<p>means particular circumstances associated with the proposed use or development that justify loss of high priority biodiversity values.</p> <p>Special circumstances are considered to exist if one or more of the following apply:</p> <p>(a) the use or development will result in significant long term social or economic community benefits and there is no feasible alternative location;</p> <p>(b) ongoing management cannot ensure the survival of the high priority biodiversity values on the site and there is little potential for recruitment or for long term persistence;</p> <p>(c) the extent of proposed removal of high priority biodiversity values on the site is insignificant relative to the extent of that community elsewhere in the vicinity;</p> <p>(d) the development is located on an existing title within the Inner Residential, General Residential, Low Density Residential, Rural Living or Environmental Living Zone and is for a single dwelling and/or associated outbuilding.</p>
suitably qualified person (biodiversity)	means a person possessing the knowledge, skills and experience to provide advice on ecological issues associated with the use and development of land. The person must be cognisant of current legislation and policy and be mindful of best practice in management and mitigation of potential impacts.
threatened native vegetation community	means a native vegetation community listed as a threatened vegetation community under the <i>Nature Conservation Act 2002</i> or a threatened ecological community under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .
threatened species	means a fauna or flora species listed under the <i>Threatened Species Protection Act 1995</i> or the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .

E10.4 Development Exempt from this Code

E10.4.1 The following development is exempt from this code:

- (a) clearance and conversion or disturbance associated with a Level 2 Activity under the *Environmental Management and Pollution Control Act 1994*;

- (b) forest operations, including clearing for agriculture, in accordance with a certified Forest Practices Plan;
- (c) fire hazard management works in accordance with a bushfire hazard management plan endorsed by the Tasmanian Fire Service, Forestry Tasmania or the Parks and Wildlife Service on land owned or administered by the Crown or Council;
- (d) fire hazard management works in accordance with the *Fire Services Act 1979* or an abatement notice issued under the *Local Government Act 1993*;
- (e) fire hazard management works for an existing dwelling in accordance with a bushfire hazard management plan endorsed by an accredited person as defined under the Bushfire Prone Areas Code, wherein the extent of clearance and conversion and disturbance is the minimum necessary for adequate protection from bushfire;
- (f) the removal or destruction of declared weeds or local environmental weeds;
- (g) works considered necessary by an agency or council to remedy an unacceptable risk to public or private safety or to mitigate or prevent environmental harm;
- (h) works considered necessary by an agency or council for the protection of a water supply, watercourse, lake, wetland or tidal waters or coastal values as part of a management plan;
- (i) coastal protection works considered necessary by an agency or council that have been designed by a suitably qualified person;
- (j) works within 2 m of existing infrastructure including roads, tracks, footpaths, cycle paths, drains, sewers, pipelines and telecommunications facilities for the maintenance, repair, upgrading or replacement of such infrastructure;
- (k) works necessary to make safe power lines or for the maintenance, repair, upgrading or replacement of such infrastructure;
- (l) works for the purpose of erecting or maintaining a boundary fence:
 - (i) within 4 m of a boundary line if within the Rural Resource or Significant Agricultural Zones; or
 - (ii) within 2 m of a boundary line if in other zones;
- (m) for general maintenance, harvesting and/or improvements associated with existing agricultural activities provided the clearance and conversion or disturbance:
 - (i) only impacts on low priority biodiversity values; and
 - (ii) is consistent with a plan of management justifying the activity is an integral part of an existing agricultural operation; and
 - (iii) is confined to no more than 1ha of land in the Rural Resource zone; and

- (iv) is confined to no more than 500m² in all other zones, except the Environmental Management zone; and
 - (v) has not been preceded by clearing on the same site for the same purpose in the past 2 years.
- (n) clearance and conversion or disturbance of previously cleared and converted land;

E10.5 Application Requirements

E10.5.1 In addition to any other application requirements, the planning authority may require the applicant to provide a natural values determination if considered necessary to determine compliance with acceptable solutions.

E10.5.2 In addition to any other application requirements, the planning authority may require the applicant to provide any of the following information if considered necessary to determine compliance with performance criteria:

- (a) a natural values determination;
- (b) a natural values assessment;
- (c) a report detailing how impacts on priority biodiversity values will be avoided, minimised, and/or mitigated;
- (d) a special circumstances justification report;
- (e) a biodiversity offsets plan.

E10.6 Use Standards

There are no use standards in this code.

E10.7 Development Standards

E10.7.1 Buildings and Works

Objective:	
To ensure that development for buildings and works that involves clearance and conversion or disturbance within a Biodiversity Protection Area does not result in unnecessary or unacceptable loss of priority biodiversity values.	
Acceptable Solutions	Performance Criteria
A1 Clearance and conversion or disturbance must be within a Building Area on a plan of subdivision approved under this planning scheme.	P1 Clearance and conversion or disturbance must satisfy the following: (a) if low priority biodiversity values:

	<ul style="list-style-type: none"> (i) development is designed and located to minimise impacts, having regard to constraints such as topography or land hazard and the particular requirements of the development; (ii) impacts resulting from bushfire hazard management measures are minimised as far as reasonably practicable through siting and fire-resistant design of habitable buildings; <p>(b) if moderate priority biodiversity values:</p> <ul style="list-style-type: none"> (i) development is designed and located to minimise impacts, having regard to constraints such as topography or land hazard and the particular requirements of the development; (ii) impacts resulting from bushfire hazard management measures are minimised as far as reasonably practicable through siting and fire-resistant design of habitable buildings; (iii) remaining moderate priority biodiversity values on the site are retained and improved through implementation of current best practice mitigation strategies and ongoing management measures designed to protect the integrity of these values; (iv) residual adverse impacts on moderate priority biodiversity values not able to be avoided or satisfactorily mitigated are offset in accordance with the Guidelines for the use of Biodiversity Offsets in the local planning approval process, Southern Tasmanian Councils Authority, April 2013 and Kingborough Biodiversity Offset Policy 6.10, November 2016.
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	<p>(c) if high priority biodiversity values:</p> <ul style="list-style-type: none"> (i) development is designed and located to minimise impacts, having regard to constraints such as topography or land hazard and the particular requirements of the development; (ii) impacts resulting from bushfire hazard management measures are minimised as far as reasonably practicable through siting and fire-resistant design of habitable buildings; (iii) remaining high priority biodiversity values on the site are retained and improved through implementation of current best practice mitigation strategies and ongoing management measures designed to protect the integrity of these values; (iv) special circumstances exist; (v) residual adverse impacts on high priority biodiversity values not able to be avoided or satisfactorily mitigated are offset in accordance with the Guidelines for the use of Biodiversity Offsets in the local planning approval process, Southern Tasmanian Councils Authority, April 2013 and Kingborough Biodiversity Offset Policy 6.10, November 2016. (vi) clearance and conversion or disturbance will not substantially detract from the conservation status of the biodiversity value(s) in the vicinity of the development.
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E10.8 Subdivision Standards

E10.8.1 Subdivision

Objective:

To ensure that:

<p>(a) works associated with subdivision resulting in clearance and conversion or disturbance will not have an unnecessary or unacceptable impact on priority biodiversity values;</p> <p>(b) future development likely to be facilitated by subdivision is unlikely to lead to an unnecessary or unacceptable impact on priority biodiversity values.</p>	
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Subdivision of a lot, all or part of which is within a Biodiversity Protection Area, must comply with one or more of the following:</p> <p>(a) be for the purposes of separating existing dwellings;</p> <p>(b) be for the creation of a lot for public open space, public reserve or utility;</p> <p>(c) no works, other than boundary fencing works, are within the Biodiversity Protection Area;</p> <p>(d) the building area, bushfire hazard management area, services and vehicular access driveway are outside the Biodiversity Protection Area.</p>	<p>P1</p> <p>Clearance and conversion or disturbance must satisfy the following:</p> <p>(a) if low priority biodiversity values:</p> <p>(i) subdivision works are designed and located to minimise impacts, having regard to constraints such as topography or land hazard and the particular requirements of the subdivision;</p> <p>(ii) impacts resulting from future bushfire hazard management measures are minimised as far as reasonably practicable through appropriate siting of any building area;</p> <p>(b) if moderate priority biodiversity values:</p> <p>(i) subdivision works are designed and located to minimise impacts, having regard to constraints such as topography or land hazard and the particular requirements of the subdivision;</p> <p>(ii) impacts resulting from future bushfire hazard management measures are minimised as far as reasonably practicable through appropriate siting of any building area;</p>

	<ul style="list-style-type: none"> (iii) moderate priority biodiversity values outside the area impacted by subdivision works, the building area and the area likely impacted by future bushfire hazard management measures are retained and protected by appropriate mechanisms on the land title; (iv) residual adverse impacts on moderate priority biodiversity values not able to be avoided or satisfactorily mitigated are offset in accordance with the Guidelines for the use of Biodiversity Offsets in the local planning approval process, Southern Tasmanian Councils Authority, April 2013 and Kingborough Biodiversity Offset Policy 6.10, November 2016. <p>(c) if high priority biodiversity values:</p> <ul style="list-style-type: none"> (i) subdivision works are designed and located to minimise impacts, having regard to constraints such as topography or land hazard and the particular requirements of the subdivision; (ii) impacts resulting from future bushfire hazard management measures are minimised as far as reasonably practicable through appropriate siting of any building area; (iii) high priority biodiversity values outside the area impacted by subdivision works, the building area and the area likely impacted by future bushfire hazard management measures are retained and protected by appropriate mechanisms on the land title; (iv) special circumstances exist;
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	<p>(v) residual adverse impacts on high priority biodiversity values not able to be avoided or satisfactorily mitigated are offset in accordance with the Guidelines for the use of Biodiversity Offsets in the local planning approval process, Southern Tasmanian Councils Authority, April 2013 and Kingborough Biodiversity Offset Policy 6.10, November 2016.</p> <p>(vi) clearance and conversion or disturbance will not substantially detract from the conservation status of the biodiversity value(s) in the vicinity of the development.</p>
<p>A2</p> <p>Subdivision is not prohibited by the relevant zone standards.</p>	<p>P2</p> <p>No performance criteria.</p>

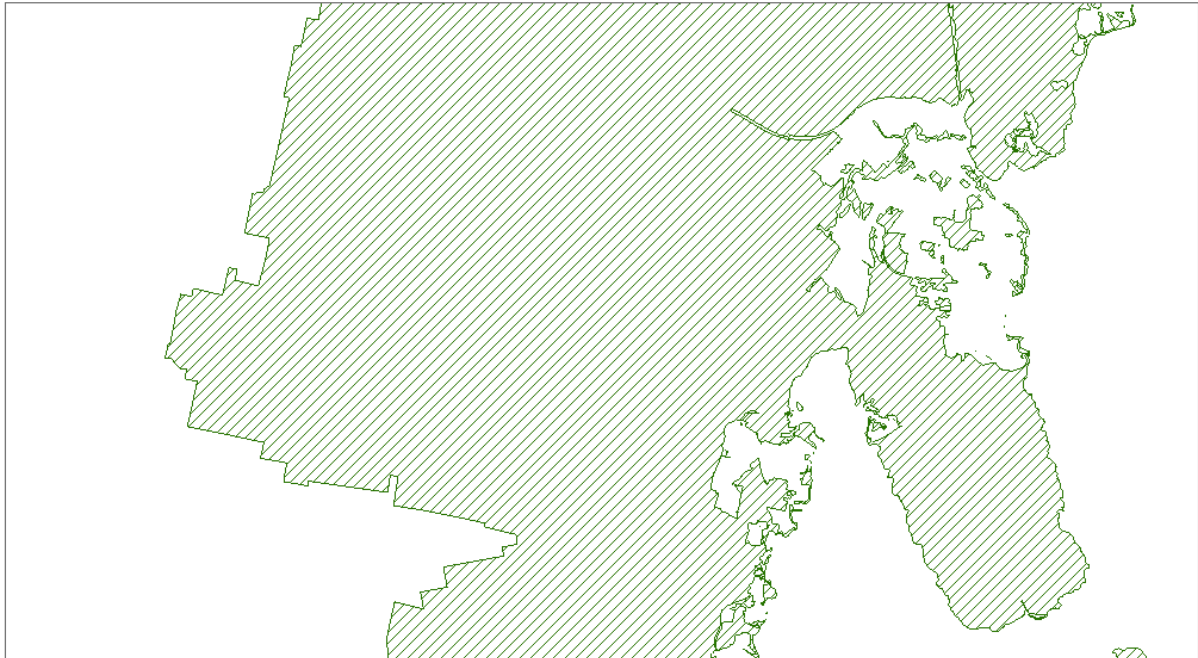
Table E10.1 Priority Biodiversity Values

High Priority Biodiversity Values	Moderate Priority Biodiversity Values	Low Priority Biodiversity Values
Native vegetation communities listed as threatened under the <i>Nature Conservation Act 2002</i>	Significant habitat for and/or areas known to contain threatened species listed under the <i>Threatened Species Protection Act 1995</i> or the <i>Environment Protection and Biodiversity Conservation Act 1999</i> that are: <p>(a) recognised as rare; and</p> <p>(b) are not specific to the municipal area.</p>	All other native vegetation communities.
Significant habitat for and/or areas known to contain threatened species listed under the <i>Threatened Species Protection Act 1995</i> or the <i>Environment Protection and Biodiversity Conservation Act 1999</i> that are: <p>(a) recognised as endangered or vulnerable; or</p>	Potential habitat for threatened species listed under the <i>Threatened Species Protection Act 1995</i> or the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .	

<p>(b) largely confined in their total distribution to the municipal area; or</p> <p>(c) have most of their range within the municipal area.</p>		
<p>Native vegetation communities with a distribution on a bioregional basis having contracted to less than 10% of its former area.</p>	<p>Native vegetation communities approaching a reduction in areal extent of 70% within a bioregional context.</p>	
<p>Native vegetation communities with a total area on a bio-regional basis generally being less than 1,000 ha.</p>	<p>Other priority species that are not listed but are considered of conservation significance in the municipal area.</p>	
<p>Remnants occurring on land systems components which have been more than 90% cleared of their native vegetation.</p>	<p>High conservation value trees.</p>	

Map E10 Biodiversity Protection Area – LISTmap

Open the full map extent (link to [interactive map](#))



Legend
Biodiversity Protection Area 

Note: This overlay map has been filtered to show the selected overlay feature only for the Planning Scheme currently being viewed.