



Ancillary rules: Biodiversity conservation actions

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1. Introduction

The offset rules established by the Biodiversity Conservation Regulation 2017 (the Regulation) allows a person with an obligation to retire biodiversity credits to fund biodiversity conservation actions to offset impacts under the biodiversity offsets scheme. The Regulation also allows the Chief Executive of the Office of Environment and Heritage (OEH) to publish ancillary rules that set out the actions that can be funded as biodiversity conservation actions.

Using a biodiversity conservation action to meet an offset obligation must be financially equivalent to the cost of acquiring the required biodiversity credits. This is achieved by calculating the funding amount required using the offsets payment calculator as in force from time to time under section 6.32 of the *Biodiversity Conservation Act 2017* to determine the cost of retirement of like-for-like credits as required under the Regulation.

The listed biodiversity conservation actions focus on:

- threatened species that are difficult to effectively manage at a biodiversity stewardship site due to limited understanding of its ecology, threats or management requirements
- threatened species with a limited known distribution where research to find more locations where the entity is present will be beneficial.

Office of Environment and Heritage will regularly review the list of biodiversity conservation actions to identify new actions and remove actions that have already received funding.

2. Requirements for the use of biodiversity conservation actions

To use a biodiversity conservation action as a measure to offset or compensate for impacts on biodiversity values, the action must:

- benefit the threatened species or ecological community impacted by the development or clearing of native vegetation
- be selected from the list in these ancillary rules
- be delivered through the NSW Government *Saving our Species* program to ensure biodiversity benefits are achieved, including the management of funding and implementation of the action
- be of an equivalent value to the amount calculated by the offsets payment calculator (as in force from time to time) for the retirement of the number of like-for-like biodiversity credits for which the action is intended to be a measure to offset or compensate.

Before seeking approval from the consent authority or Native Vegetation Panel, applicants must seek written agreement from OEH to the proposed action being delivered through the NSW Government *Saving our Species* program.

3. Implementation of biodiversity conservation actions

A person must seek approval of the biodiversity conservation action from the consent authority or the Native Vegetation Panel. This would generally be done through the application for the activity requiring the offset.

The application must demonstrate that the ‘requirements for the use of biodiversity conservation actions’ listed in section 2 above have been met. To use a biodiversity conservation action, it must be imposed as a condition of consent or approval.

Funding for the biodiversity conservation action must be provided before the impact on the threatened entity occurs. This should be set out in the condition of consent or approval. The biodiversity conservation action does not need to be completed before the development or clearing of native vegetation commences.

4. Funding of biodiversity conservation action by the Biodiversity Conservation Trust

The offset rules in the Regulation allow the Biodiversity Conservation Trust (BCT) to secure biodiversity offsets by funding an action in the ancillary rules as a first option. The action must benefit the threatened species impacted; however, the other requirements for use of biodiversity conservation actions in these ancillary rules do not apply to the BCT. Clause 6.6 of the Regulation allows the BCT to fund biodiversity conservation actions that are not included in the ancillary rules.

5. Updates to the ancillary rules

The Chief Executive of OEHL can amend ancillary rules at any time by publishing a later version of the rules. When the ancillary rules are amended, the previous rules remain available for 90 days, and during this period, proponents or the BCT can choose to use either the previous or the amended ancillary rules.

6. Prescribed biodiversity conservation actions

The biodiversity conservation actions listed in Table 1 can be funded by a proponent if the other requirements in these ancillary rules are met.

Table 1 Biodiversity conservation actions list

Species common name	Species scientific name	Biodiversity conservation actions
Flockton wattle	<i>Acacia flocktoniae</i>	Targeted survey across entire predicted range to identify locations of populations. Research to understand critical threats requiring management.
Five-clawed worm-skink	<i>Anomalopus mackayi</i>	Identify key threats to the species' viability at critical sites and associated relevant management actions. Research the species' movement patterns, habitat use and response to management.
A spear-grass	<i>Austrostipa metatoris</i>	Targeted survey in areas of known habitat to confirm distribution and population sizes and undertake threat assessment.

Species common name	Species scientific name	Biodiversity conservation actions
Mossgiel daisy	<i>Brachyscome papillosa</i>	<p>Targeted survey in areas of suitable habitat between Mungo National Park and Balranald; areas surrounding Willandra National Park; Lachlan Valley National Park south of Corrong; Murrumbidgee National Park (Yanga); Kalyarr and surrounding areas on travelling stock reserves, to confirm distribution, population sizes and undertake threat assessment.</p> <p>Investigate life history dynamics including seed viability, germination, dormancy and longevity (in the natural environment and in storage).</p> <p>Conduct experimental research into the relative impacts of different disturbance regimes such as grazing and fire on the species survival and recruitment.</p>
Missionary nutgrass	<i>Cyperus semifertilis</i>	<p>Target survey in areas of suitable habitat, including areas near rainforest and wet sclerophyll forest (Brushbox) on metamorphic parent rock and deep rocky gulleys to identify populations.</p> <p>Note: surveys should be conducted during flowering period (likely to be December to March).</p>
Deyeuxia appressa	<i>Deyeuxia appressa</i>	<p>If/when extant populations are identified, collect data on area of occupancy, population status and habitat and undertake threat assessment.</p>
Spike-rush	<i>Eleocharis obicis</i>	<p>Investigate life history dynamics including seed viability, germination, dormancy and longevity (in the natural environment and in storage).</p> <p>Conduct experimental research into the effects of various flooding regimes and stock (grazing and trampling) disturbances on the species survival and recruitment.</p>
Mueller's eyebright	<i>Euphrasia collina subsp. muelleri</i>	<p>Targeted survey in areas where the species is known to have occurred across entire predicted range to determine whether populations exist in New South Wales.</p>
White-bellied storm-petrel	<i>Fregatta grallaria</i>	<p>Determine the distribution of the species at sea via pelagic surveys.</p> <p>Determine extent of breeding population through survey of Lord Howe Island and the offshore islands.</p> <p>Determine current levels of reproductive success of the species.</p> <p>Investigate potential translocation techniques for offspring.</p>
Baeuerlen's gentian	<i>Gentiana baeuerlenii</i>	<p>Target survey in areas of suitable habitat to identify populations.</p>
Flame spider flower	<i>Grevillea kennedyana</i>	<p>Investigate population dynamics and the number of distinct individuals, through genetic analysis.</p> <p>Assess seed bank to ensure the persistence of viable seed.</p> <p>Test for mechanisms influencing lack of germination, including seed predation.</p>
Torrington beard-heath	<i>Leucopogon confertus</i>	<p>Targeted survey in areas where the species is known to have occurred across entire predicted range to determine whether populations exist in New South Wales.</p>

Species common name	Species scientific name	Biodiversity conservation actions
Chariot wheels	<i>Maireana cheelii</i>	Target survey at known locations in scalded country in salt bush plains area to identify extent of populations. Undertake a threat assessment at sites where populations are located in Moulamein, Deniliquin and Hay areas.
Nalbaugh nematolepis	<i>Nematolepis rhytidophylla</i>	Targeted survey at known locations to assess population size, status and habitat and undertake threat assessment.
Ozothamnus tessellatus	<i>Ozothamnus tessellatus</i>	Targeted survey in potential habitat (based on current records and knowledge) to define distribution and where populations are located, assess population dynamics and undertake threat assessment.
Bolivia Hill pimelea	<i>Pimelea venosa</i>	Determine if populations can be resurrected from seedbank, and if it is possible assess: a. abundance; b. demographics; c. recruitment; and d. long-term trends. Identify local threats limiting population viability over next 100 years and precisely determine amelioration of fluctuating impacts under variable environmental conditions (e.g. drought and climate change).
Silky pomaderris	<i>Pomaderris sericea</i>	Conduct targeted survey in areas of known habitat to assess population status, investigate species' ecology and habitat, and undertake threat assessment.
Prostanthera discolour	<i>Prostanthera discolor</i>	Confirm all potential records of the species as being <i>Prostanthera discolor</i> rather than a similar taxon. Targeted survey throughout suitable habitat and within areas surrounding known records to determine population extent and tenure and undertake threat assessment.
Kermadec petrel (west Pacific subspecies)	<i>Pterodroma neglecta neglecta</i>	Investigate recent habitat use on Mutton Bird Island (off Lord Howe Island). Targeted surveys on accessible populations on Phillip Island and Norfolk Island to confirm: a. possible year-round breeding; b. constraints of on-site management; c. at-sea distribution; d. diet.
Horned greenhood	<i>Pterostylis bicornis</i>	Targeted survey of known location near Woodenbong to assess population size and threats.
Leafy greenhood	<i>Pterostylis riparia</i>	Targeted survey across the known range to identify significant populations and undertake threat assessment.
Blotched sarcochilus	<i>Sarcochilus weinthalii</i>	Targeted survey of fallen branches of host plant during flowering season (Sept–Oct) to define distribution.
Yellow swainson-pea	<i>Swainsona pyrophila</i>	Targeted survey in the mallee regions (Mallee Cliffs and Scotia Sanctuary) post-fire. Conduct experimental research into the effects of fire on survival and recruitment.