



DEPARTMENT OF PLANNING, INDUSTRY & ENVIRONMENT

Biodiversity Offsets Scheme Accredited Assessor Update 44

11 February 2021

Welcome back to our first update for 2021.

Please note: Item 1 (BOS area threshold) provides updated advice to that set out in AA Update No.42. The remaining items were also included in Update No.43

In this update

1. [BOS area threshold – updated legal advice](#)
2. [BOS Credit retirement/transfer forms](#)
3. [BAM 2020 Operational Manual](#)
4. [Update on BAM Assessor renewal training](#)
5. [Seeking concurrence for a reduced credit obligation](#)
6. [Practice Note – Applying modified benchmarks to the assessment of vegetation integrity](#)
7. [Invitation to comment on the draft Guideline: How to calculate native vegetation extant for applying the area clearing threshold](#)
8. [BCT update](#)

1. BOS area threshold – updated legal advice

To apply the Biodiversity Offsets Scheme (BOS) area clearing and Biodiversity Values Map threshold for a new development proposal, vegetation clearing that has already been assessed and approved under the *Environmental Planning and Assessment Act 1979* (EP&A Act) may not be required to be taken into consideration.

In addition, impacts on biodiversity that have been previously assessed and approved under the EP&A Act, may not require further biodiversity assessment under the *Biodiversity Conservation Act 2016* (BC Act).

The assessment pathway for a new development proposal will depend on the specific details of the previous consent and the proposed development. This must be evaluated on a case-by-case basis, usually involving discussions between the proponents, accredited assessor and the decision-maker.

Consideration of whether areas of native vegetation that have an existing approval but are not yet cleared, apply to calculating the BOS threshold which will depend on:

- the scope of the new development proposal and whether the clearing required for the proposed development had been assessed and approved by the previous development consent

- whether the new development proposal can be undertaken in accordance with the conditions of the previous development consent
- whether the previous development consent has lapsed or it requires modification.

If you are unsure about BOS area threshold calculations for a new proposed development because of areas that were previously approved, but not yet cleared, please contact **BAM Support** for confirmation.

2. BOS Credit retirement/transfer forms

To assist applicants in preparing and submitting Biodiversity Assessment Method (BAM) credit transfer/retirement forms, please see the attached guidance document and annotated forms. When you are ready to submit your forms, we would ask that you use this link to access the most up to date versions – [Biodiversity Offset Scheme Transactions page](#).

3. BAM 2020 Operational Manual

[BAM 2020 Operational Manual – Stage 1](#) has been published and can be accessed from the [Assessor Resources](#) webpage. The manual explains the requirements in Stage 1 of the BAM for identifying and assessing biodiversity values, assessing the landscape context, the vegetation integrity, habitat suitability for threatened species and identifying prescribed biodiversity impacts. Updates are on track for completion in the second quarter of 2021 to align the Operational Manual – Stage 2 with BAM 2020. In the interim, Stage 2 is available for the [BAM 2017](#). [BAM 2020 Operational Manual – Stage 3](#) was published with the release of BAM 2020.

4. Update on BAM Assessor renewal training

We said we would provide an update on renewal training by the end of the year. Most respondents to the Continuing Professional Development survey indicated a two-day training course with course fee of \$1000 was appropriate.

The renewal training course is proposed to involve five hours of online learning and two half-day sessions delivered interactively online. The course will be in place in time for renewals in July 2021.

5. Seeking concurrence for a reduced credit obligation

Please note the webpage for seeking [concurrence](#) for a reduced credit obligation has been updated. Key updates included:

- public exhibition of ‘threatened species development’
- mandatory use of the [NSW Planning Portal](#) for concurrence requests
- clarification that requests for concurrence must occur prior to DA determination
- clarification around statutory timeframes that apply to concurrence
- clarification that any concurrence granted only applies to an offset obligation under the *Environmental Planning and Assessment Act 1979*.

6. New Guidance for the application of modified benchmarks to the assessment of vegetation integrity

BAM support have released a new [Practice Note: Guidance for assessors and decision-makers in applying modified benchmarks to assessments of vegetation integrity](#).

Modified benchmarks include any benchmark data not contained within the BAM-Calculator (BAM-C). Modified benchmarks are referred to in the BAM as more appropriate local data. It is recommended that an assessor considers the use of modified benchmarks, in accordance with BAM Subsection 1.4.2, when:

- extreme climatic variation is adversely affecting the composition and structure of growth form groups important to a plant community type (PCT)
- finer-scale benchmarks are available for the relevant PCT from a published peer-reviewed source
- the vegetation class by Interim Biogeographic Regionalisation for Australia (IBRA) bioregion benchmark is demonstrated to be unsuitable for the PCT (due to the broad scale of the benchmark classification)
- the available BAM-C benchmark data has a low confidence rating.

The assessor must provide the decision-maker with supporting information to justify the use of modified benchmarks and seek written agreement (BAM Subsection 1.4.2 (1)). It is recommended assessors engage early with the decision-maker to discuss and reach agreement on a proposal to use modified benchmarks.

The guidance describes:

- how assessors and consent authorities can determine whether a site has experienced a very wet or very dry rainfall year according to the total annual rainfall
- when to consider the use of modified benchmarks
- how to apply modified benchmarks to an assessment
- information requirements to seek decision-maker approval for use of modified benchmarks.

7. Invitation to comment on the draft Guideline: How to calculate native vegetation extant for applying the area clearing threshold

The Department is developing Guidelines on '*How to calculate native vegetation extant for applying the area clearing threshold*', providing more detailed advice on the recommended process for calculating proposed clearing of native vegetation to apply the area clearing threshold. If you are interested in reviewing and providing feedback on the draft Guideline, please email bam.support@environment.nsw.gov.au. Consultation will close 26 February 2021.

Recent enhancements to the BMAT Tool

The Biodiversity Offsets Scheme (BOS) Threshold has two elements:

1. an assessment of the amount of native vegetation being cleared exceeds an area threshold
2. whether the impacts occur on an area mapped on the Biodiversity Values Map.

Together with the Threatened Species Test of Significance, the BOS threshold makes up the legislative triggers into the BOS for Part 4 developments.

The Biodiversity Values Map and Threshold (BMAT) Tool can produce a report stating whether the development footprint occurs on the Biodiversity Values (BV) Map triggering the BOS and that a Biodiversity Development Assessment Report (BDAR) is required.

An enhancement has been made to the Tool so that where the development footprint ('Total digitised area') is less than the area clearing threshold, then the BMAT evaluation report will state 'No' for the 'Area clearing trigger'. Where the footprint is greater than the area clearing threshold, it will state 'Unknown' and a manual calculation is required to determine whether the area clearing threshold is exceeded.

Some changes have been made to the BMAT User Guide on how to determine the area of native vegetation that to be cleared. This includes removing the advice on mapping a group of trees as a single area where the crown separation ratio is between 0 and 3.

8. BCT update

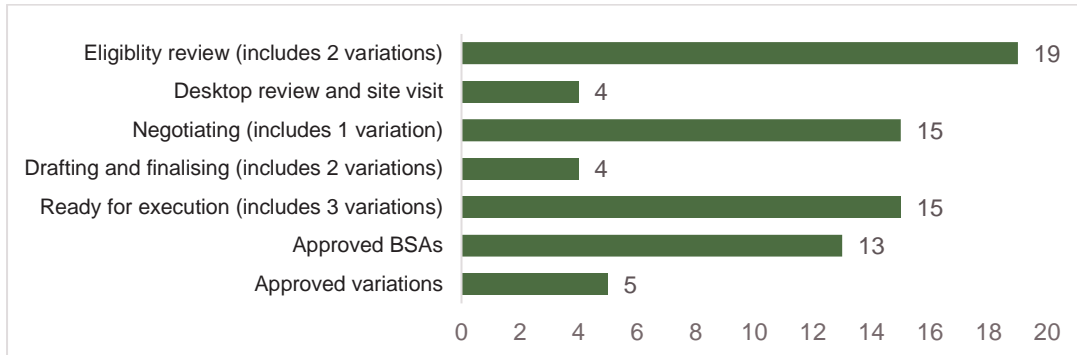
BCT Ecological Monitoring Module – Operational Guidance for Ecological Monitoring at Biodiversity Stewardship sites

The BCT's framework for monitoring, evaluating, and reporting on biodiversity outcomes at all sites under its administration, has been established in the Ecological Monitoring Module (EMM). For implementing ecological monitoring at Biodiversity Stewardship sites, associated operational guidance is being prepared for release in early 2021.

A webinar focusing on the EMM and the recently released BAM Operational Manual Stage 3 will be held on 25 February 2021. The requirement to align new Biodiversity Stewardship Agreements (BSA) applications with the EMM is planned to take effect from March 2021. For any enquiries related to the EMM, please contact info@bct.nsw.gov.au.

BSA Application status

The Biodiversity Conservation Trust (BCT) is currently processing 37 Biodiversity Stewardship Agreement applications, and five variation applications.



-----**End of Assessor Update No.44**-----

Note: The information contained in this publication is based on knowledge and information at the time of publication (11 February 2021). However, readers are reminded of the need to ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate officer of the Department of Planning, Industry and Environment or the user's independent adviser.