

Concept development applications and the Biodiversity Offsets Scheme

When is a biodiversity development assessment report required for a concept development application?

A concept development application under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), other than State Significant Development (SSD), will require a biodiversity development assessment report (BDAR) if the concept proposals trigger the Biodiversity Offsets Scheme because they:

- exceed the Biodiversity Offsets Scheme threshold
- are likely to significantly affect threatened species based on the test of significance in section 7.3 of the *Biodiversity Conservation Act 2016* (BC Act), **or**
- are carried out in an area of outstanding biodiversity value.

Concept development applications for SSD require a BDAR unless the requirement is waived under s7.9(2) of the BC Act.

The development footprint of the concept proposals must be defined

For the purposes of deciding whether a BDAR is required, the development footprint of the concept proposals must be sufficiently defined to identify:

- any clearing of native vegetation that is required or likely to be required for the concept proposals
- any prescribed impacts that will or are likely to occur within the development footprint of the concept proposals.

The extent of these impacts must be taken into account when applying the Biodiversity Offsets Scheme triggers (section 7.2 of the BC Act) to concept development applications under Part 4 of the EP&A Act.

Credit retirement obligations may be staged in conditions of consent for concept development approvals

When the biodiversity offsets scheme applies, the conditions of consent for the concept development application can identify a staged retirement of the credit obligation (section 7.13(5) of the BC Act). Credit retirement must occur prior to the commencement of works at each stage.

The biodiversity offset scheme threshold will be exceeded if the concept proposals involve:

- clearing of native vegetation that exceeds the area clearing threshold OR
- clearing of native vegetation or prescribed impacts on land included on the Biodiversity values map

More information is available at <https://www.environment.nsw.gov.au/biodiversity/entryrequirements.htm>

Prescribed impacts are identified in [clause 6.1](#) of the *Biodiversity Conservation Regulation 2017* (BC Regulation).

Is a BDAR required for development applications for subsequent stages of proposed development the subject of a concept development consent?

A BDAR will not be required for a subsequent development application where:

- a BDAR was prepared for the concept development application
- the subsequent development application is consistent (with respect to vegetation clearing and prescribed impacts within the development footprint) with the approved concept development, **and**
- the credit obligation has been discharged in full for the concept development approval or the conditions of consent identify a staged retirement of credits.

Where a BDAR was not submitted with the concept development application, the proponent will need to address the Biodiversity Offsets Scheme threshold, the test of significance and areas of outstanding biodiversity value to determine if a BDAR is required for each subsequent development application.