

## Development assessment decision making and biodiversity development assessment reports

### Serious and irreversible impacts must be considered for streamlined Biodiversity Assessment Method assessments

Streamlined assessment pathways do not extinguish the requirement in section 7.16 of the *Biodiversity Conservation Act 2016* (BC Act) to consider serious and irreversible impacts associated with a proposed development. Consequently, any entity at risk of a serious and irreversible impact on the subject land must be fully assessed. Entities at risk of a serious and irreversible impact are identified in the [Guidance to assist a decision-maker to determine a serious and irreversible impact](#) and in [BioNet](#).

For species that are at risk of a serious and irreversible impact, a threatened species survey is required to be completed in accordance with section 6.5 of the Biodiversity Assessment Method (BAM). If an entity at risk of a serious and irreversible impact is present, the assessor must address the impact assessment criteria in section 10.2 of the BAM in the biodiversity development assessment report (BDAR).

Where a proposal impacts an entity at risk of a serious and irreversible impact, the consent authority must determine whether the impact is likely to be serious and irreversible. Local development likely to have a serious and irreversible impact on biodiversity values must be refused.

### Serious and irreversible impacts must be considered for low condition vegetation that does not require an offset

Section 10.3 of the BAM provides that an offset for ecosystem credits need not be calculated where the vegetation integrity score of native vegetation is below certain thresholds.

These offset settings do not extinguish the requirement in section 7.16 of the BC Act to consider serious and irreversible impacts associated with a proposed development. If an entity at risk of a serious and irreversible impact is present, the assessor must address the impact assessment criteria in section 10.2 of the BAM in the BDAR.

Where a proposal will impact an entity at risk of a serious and irreversible impact, the consent authority must determine whether a serious and irreversible impact is likely to occur. Local development likely to have a serious and irreversible impact on biodiversity values must be refused.

Streamlined assessment modules are available in the BAM to assess clearing of paddock trees (Appendix 1) and small areas (Appendix 2). Section 3.2 of the BAM outlines the requirements for using streamlined assessment modules.

Streamlined assessments are intended to align assessment requirements with level of biodiversity risk enabling an assessor to prepare a reduced version of a BDAR.

## Councils may elect to undertake a detailed review of any biodiversity development assessment report submitted with a development application

A development application must be accompanied by a biodiversity development assessment report (BDAR) if it is likely to significantly affect threatened species (s. 7.2 of the BC Act). A consent authority is required to consider the impact of the development on biodiversity values as assessed in the BDAR (s. 7.13 of the BC Act). A BDAR must be prepared in accordance with the BAM (s. 6.12 of the BC Act).

In fulfilling the requirement to consider the impact of a development on biodiversity values as assessed in the BDAR, it is up to the consent authority to decide the extent to which they interrogate the inputs in a BDAR and its consistency with the BAM. As a decision maker under the *Environmental Planning and Assessment Act 1979* (EP&A Act), the consent authority is entitled to review and consider facts relevant to a development application in evaluating the application. Consent authorities, or their delegates, do not need to be accredited in the application of the BAM to critique a BDAR.

## Determination of developments required to prepare a biodiversity development assessment report

The NSW Department of Planning, Industry and Environment (DPIE) is monitoring the operation of the Biodiversity Offsets Scheme, including measuring biodiversity losses and gains across the scheme.

The DPIE is asking councils to notify the [LMBC Service Centre](#) of the determination of every development (Part 4 EP&A Act) or activity (Part 5 EP&A Act) to which the Biodiversity Offsets Scheme applies.

To notify DPIE,:

- the decision maker downloads and fills in the form [Biodiversity Offsets Scheme – Notification of Determination](#)
- the decision maker emails the completed form and attachments, including a copy of the determination and any conditions of approval, to the LMBC Service Centre at [lmbc.support@environment.nsw.gov.au](mailto:lmbc.support@environment.nsw.gov.au).

The LMBC Service Centre arranges for determination outcomes to be recorded in the Biodiversity Offset and Agreement Management System (BOAMS).

This is an interim process. The DPIE intends to further develop the BOAMS and supporting processes to enable direct capture of this information.

Councils could consider including a condition of consent in an approval that requires the applicant to notify DPIE.

The applicant would follow the process outlined on behalf of council.

It would be necessary for the condition of consent to require that council is copied into the notification to confirm compliance.