

NSW Biodiversity Offsets Fund for Major Projects

Discussion paper

Introduction

The NSW Biodiversity Offsets Fund for Major Projects (the fund) is a new initiative that will complement the NSW Biodiversity Offsets Policy for Major Projects (the policy) – visit www.environment.nsw.gov.au/biodivoffsets/1480biofpolmp.htm. The fund will allow proponents to satisfy their offset requirement through a monetary contribution. Proponents will pay money to the fund and the fund will purchase offsets on their behalf. This will increase certainty for proponents and will enable a more strategic approach to purchasing offsets.

This discussion paper sets out the expected benefits of the fund and seeks input on key factors that will be involved in its design and establishment. These include:

- the broad structure and functions of the fund
- determining the amount to be paid into the fund
- the need for transparency and good governance.

Consultation on the fund and the policy will run until 9 May 2014. Further information on ways in which you can comment on this discussion paper and on the broader policy is provided at the end of this paper.

This fact sheet does not provide the details of the overarching policy, which are available on www.environment.nsw.gov/biodivoffsets/biooffsetspol.htm.

Key benefits of the fund

It is expected that the fund will have three key benefits:

- a. Increasing certainty and saving time for proponents
- b. Enabling a more strategic and coordinated purchase of offsets, leading to targeted protection and improvement of biodiversity with high conservation values
- c. Assisting landowners, including farmers, to establish offset sites on bushland portions of their land that can result in an additional income stream.

These benefits are described in more detail below.

a. Certainty for proponents

Once the fund has been established, proponents will, in most cases, be able to understand upfront how much money they will need to contribute to fulfil their offset requirements.

The policy provides a transparent and repeatable method for assessing impacts on biodiversity and determining offset requirements. This method is contained in the Framework for Biodiversity Assessment (FBA) (see www.environment.nsw.gov.au/biodivoffsets/1482fba.htm), which is applied by an accredited ecological consultant. This means proponents will generally know what their biodiversity offset requirement is before they submit their development application. If the proponent elects to use the fund to fulfil part, or all, of their offset requirement, they will be able to translate this offset requirement into a monetary amount to pay into the fund.

The establishment of the fund will mean that proponents will no longer need to locate and secure appropriate offsets themselves. Locating, purchasing and managing offset sites that contain the right biodiversity values to offset the impacts of a development can

be challenging and time consuming. It is often not a proponent's core business or area of expertise and adds to the cost of development. Providing the option for proponents to pay a predetermined amount of money into the fund reduces the time and uncertainty associated with locating offsets.

b. More strategic and coordinated purchase of offsets

Establishment of the fund will centralise the role of finding offsets for major projects. A fund program manager will be able to strategically locate and purchase offsets that target the biodiversity values being lost on a development site and will be able to consolidate the offset requirements of proponents. For example, the program manager could locate offsets in places that are strategically important for biodiversity in NSW, such as land adjacent to rivers, streams, and wetlands, and important biodiversity corridors.

c. Assistance to landowners to establish offset sites

A fund will provide a central point of contact for landowners, including farmers, to receive information on the types of offsets being sought by developers at any point in time. This will enable landowners to consider if they have the type of bushland on their property relevant to the particular offsets needed. Landowners can then establish offset sites (biobank sites) on their land and sell the credits to the fund. This will result in landowners receiving an income stream for that bushland portion of their property. For more details on landowners establishing offset sites, see *Fact sheet: Managing an offset site – Information for landowners* at www.environment.nsw.gov.au/biodivoffsets/1497infoland.htm.

This process will be easier than landowners trying to connect with proponents of major projects themselves to sell credits from offset sites. There will also be capacity for a fund manager to actively engage with landowners to source offsets and assist with the establishment of offset sites.

Broad structure and functions of the fund

There are likely to be two main functional areas associated with the fund. These are:

- a. managing money that goes into and out of the fund, investing the money in the fund and reporting on the fund's performance.
- b. purchasing relevant offsets, directing funds to supplementary measures (see Appendix 1 of the policy) and working with landowners to set up offset sites.

It is proposed these two functions be undertaken by two separate entities. A fund manager will undertake functions described at 'a' above and a program manager will undertake functions described at 'b'.

The roles of administering a fund and an offset program are vastly different. Entities experienced in these functions are best placed to perform them as has been the case in NSW in administering similar funds such as the BioBanking Trust Fund (Box 1), and similar offset purchasing programs such as the Growth Centres Biodiversity Offset Program (Box 2).

Question 1: What broad functions need to be considered in structuring the fund?

a. Functions of the fund manager

The functions of the fund manager are similar to those carried out for other state-wide funds, such as the BioBanking Trust Fund (Box 1). The fund manager will need to be capable of managing large sums of money for a public purpose.

Box 1: BioBanking Trust Fund

The BioBanking Trust Fund (BTF) has been set up to fund the management of biobank sites in perpetuity. The Environmental Trust, which is an independent statutory body that is administered by the Office of Environment and Heritage (OEH), is the fund manager of the BTF. The Environmental Trust has the following responsibilities:

- acts as the trustee of money in the BTF
- invests funds held in the BTF, administers the accounts and makes payments from the BTF – funds are invested through the New South Wales Treasury Corporation, the central financing authority for the NSW Government
- reports on the performance of the BTF on a quarterly and annual basis – the annual report is tabled in both houses of Parliament and quarterly reports are provided to the Minister for the Environment; both annual and quarterly reports are made publicly available on the OEH website (see www.environment.nsw.gov.au/biobanking/trustfund.htm).

Question 2: What benefits are associated with the fund manager being either a public or private entity?

b. Functions of the program manager

The primary functions of the program manager will be to source and buy biodiversity offsets using money from the fund, direct funds to appropriate supplementary measures and work with landowners to increase offset supply. Working with landowners may involve assisting them with establishing biobank sites on their land. This is similar to the role OEH currently performs as part of managing the Growth Centres Offset Program (Box 2).

Box 2: Growth Centres Biodiversity Offset Program

The Growth Centres Biodiversity Offset Program was set up to offset the impacts on biodiversity from development in the Sydney Region Growth Centres. The program is implemented by OEH, using funds received from developer contributions in these areas as well as general government revenue. OEH uses these funds to protect biodiversity through two project streams. The first project stream involves acquiring land for new reserves from willing sellers, and the second stream involves establishing in-perpetuity conservation agreements, such as biobanking agreements, with willing landowners.

For example, OEH worked with the Sisters of the Good Samaritan at the Mater Dei property at Cobbitty, which contains some of the best Cumberland Plain Woodland remaining in private ownership and habitat for several threatened species. In May 2012, the Sisters and OEH established a biobank site at Mater Dei that now permanently protects 25 hectares of Cumberland Plain vegetation with funding provided for its management.

As a result of the Growth Centres Biodiversity Offset Program, 399 hectares of native vegetation and habitat for several threatened species such as the eastern freetail-bat and varied sitella have been permanently conserved in the program's first five years, while development to meet Sydney's housing needs progresses.

OEH prepares annual reports detailing the properties that have been protected and what biodiversity values they contain. A transparent financial statement is also provided as part of annual reporting. More information on this program is available at www.environment.nsw.gov.au/biocertification/GrowthCentres.htm.

The program manager would apply the rules of the policy when directing funds to offsets or supplementary measures. This will mean it will search for offsets that meet a proponent's biodiversity credit requirement, as determined under the FBA, and will only direct money to supplementary measures when appropriate offsets are not available.

Option for locating offsets: Expression of interest program

One way in which the program manager could search for offsets that meet the requirements of the policy would be to run an 'expression of interest' program. The program manager could advertise the type of biodiversity offsets that are required to landowners in a given geographic area. The program manager can then work with landowners who express interest. The program manager would carry out an initial assessment of the property to see if it met the program's requirements and talk to the landowner about the process for entering into a biobanking agreement.

Such a program would provide a significant opportunity for landowners, including farmers, to receive assistance from a fund manager to establish offset sites and receive an income stream for bushland portions of their properties.

Further guidance would need to be developed for the program manager on how they apply the rules of the policy, to ensure that the process for purchasing offsets is transparent.

Question 3: Are there any other key functions that need to be performed by the fund manager?

Question 4: Are there other key functions that need to be performed by the program manager?

Question 5: Do you have other suggestions for how the program manager could source offsets?

Determining the amount to be paid into the fund

A fund calculator will need to be developed. This would be used to determine the amount a proponent would need to pay into the fund to meet their offset requirement. The fund calculator will need to use a transparent method to calculate the amount required.

Under the policy, the proponent's offset requirement is calculated using the FBA and expressed in biodiversity credits. The cost of credits could be based on the costs for the fund to purchase different types of credits on the market.

The calculator will need to deal with a range of issues, including:

- offsets will usually be purchased after contributions were made, so actual market prices may vary from the calculated price
- administration fees to cover the operating costs of the program manager.

The aim will be for proponents to get a reliable estimate of their contribution to the fund based on their biodiversity credit requirement, as determined under the FBA.

Question 6: What are the key considerations for developing a fund calculator that is transparent and fair?

The need for transparency and good governance

Good governance is essential for the fund to be transparent, accountable, stable, commercially viable and credible.

Measures to ensure good governance could include:

- annual reporting requirements
- clarity around the calculation and use of biodiversity credits
- provision of fund statements.

Question 7: What are the key considerations for good governance of the fund manager?

Question 8: What are the key considerations for good governance of the program manager?

Future options for involvement

Please answer the above questions, and add any other comments, before 9 May 2014:

- online – visit <http://engage.environment.nsw.gov.au/biodiversity-offsets-policy-for-major-projects>
- by emailing offsets.policy@environment.nsw.gov.au

Where can I get more information?

Further information on the NSW Biodiversity Offsets Policy for Major Projects is available at www.environment.nsw.gov.au/biodivoffsets/biooffsetspol.htm or by phoning Environment Line on 131 555.

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