

NSW Office of Environment and Heritage

BAM Assessor Update Number 9

1. Topics Covered:

1. How does the Biodiversity Conservation Act 2016 interact with SEPP 44?
2. Three useful tips on using BOAMS
3. What to do if no survey month is specified in BAM-C for a flora species
4. Data differences between BAM-C and BioNet
5. Local Government FAQ's webpage

1. How does the Biodiversity Conservation Act 2016 interact with SEPP 44?

Proponents and consent authorities need to comply with both the requirements under the *Biodiversity Conservation Act 2016* (BC Act) and the requirements under SEPP 44. This may require preparing a Biodiversity Development Assessment Report (BDAR) and offsetting impacts on koalas, as well as a koala plan of management (KPoM) under SEPP 44 which may also propose offsets. Whether offset requirements specified in a BDAR will satisfy the requirements under a KPoM will be a matter for the KPoM itself and will depend on the facts and circumstances of the specific development.

For example, a KPoM could be amended to say that meeting the offset obligations under the BC Act will satisfy the offset requirements under the KPoM. However, a consent authority could also decide to impose additional offset requirements after considering the BDAR and KPoM.

Similarly, where a DCP is in place that has relevant provisions for core koala habitat, a consent authority could impose further controls through conditions (which may also include offsets).

Council would need to be satisfied that any condition imposed is lawful and reasonable.

There may be overlap between the avoid, minimise or offset measures proposed in the BDAR and actions under a KPoM or controls in a DCP. This overlap does not of itself create an inconsistency. However, in the instance that the consent authority would be *unable* to comply with the requirements of both the BC Act and SEPP 44, the BC Act would prevail to the extent of that inconsistency.

2. Three useful tips on using BOAMS

- ✓ When you create a new case in BOAMS, rename the case in the "Subject" field as soon as possible. The system defaults to titles of either "Development assessment case" or "Stewardship - Application Case". If you don't rename your cases after creation your case lists will consist of a list of only those title options, which can become confusing.
- ✓ When creating a new parent case in BOAMS, be sure to add an Individual Landholder as case party before you open the BAM calculator. You should do this even if the case is for test purposes and you do not intend to submit the case. The system requires a landholder case party to finalise the BAM calculation, and if the landholder is not

detected you will not be able to finalise the BAM calculation. Currently the landholder case party must be an "Individual Landholder". You may also add a corporate case party, but an Individual Landholder case party must be present (even if dummy details for the landholder are added).

- ✓ Once you have finalised your BAM assessment, completed all of the of the supporting information and are ready to prepare your BDAR (or BSSAR), you must submit the case in BOAMS. To do this click on the "Submit" button on the parent case. You'll be reminded to add a property and lots to the case if you have not already done so. Cases to be reviewed by OEH (major projects, biocertification proposals) and the BCT (Stewardship applications) must be submitted before review can commence.

3. What to do if no survey month is specified in BAM-C for a flora species

In some circumstances there is no specific month(s) that is suitable for survey at '5. Habitat survey' within the BAM-C. This may be because the species is ephemeral and needs specific rainfall or disturbance requirements before it will emerge. Another reason the months may be blank occurs where a species is present above ground in different months across its distribution or is above ground for less than a month.

Species	Species presence	Survey timetable	UOM	Veg Zone & Value	Biodiversity risk
Pterostylis riparia Pterostylis riparia	Yes (surveyed)		Area (ha)	<input type="checkbox"/> 413_Moderate <input type="checkbox"/> 397_Moderate <input type="checkbox"/> 35_Moderate <input type="checkbox"/> 55_Moderate	High

Where no month of survey is shown for a candidate species, please consult 'General notes' field of TBDC

For these species, refer to the 'General Notes' field in the 'Ecological data' for the species within the TBDC. The notes will specify any environmental conditions required for survey, or the best time to survey for that species within a particular population or a region. Where the necessary environmental conditions cannot be met for surveying the species, an export report will be required.

General Notes	Survey: Coastal populations are best surveyed in September and populations on the ranges surveyed in October.
Survey	
Months of Survey	<input type="checkbox"/> January <input type="checkbox"/> June <input type="checkbox"/> October <input type="checkbox"/> February <input type="checkbox"/> July <input type="checkbox"/> November <input type="checkbox"/> March <input type="checkbox"/> August <input type="checkbox"/> December <input type="checkbox"/> April <input type="checkbox"/> September <input type="checkbox"/> N/A <input type="checkbox"/> May

4. Data differences between BAM-C and BioNet

When reviewing a species in BioNet assessors may notice that the data differs slightly from the BAM-C. This occurs when data is updated in BioNet (based on new information), but is not automatically updated in the BAM-C. The BAM-C data is updated periodically throughout the year, and assessors will be notified when this occurs.

At all times, the data in the BAM-C is to be used in an assessment and is considered correct, however assessors still need to refer to BioNet, as BioNet contains further information not included in the BAMC and could provide more up-to-date data/information that the assessor can refer to.

5. Local Government FAQ's webpage

OEH has identified some common questions asked by Councils about the biodiversity reforms and have provided these as [FAQ's](#) on the BOS website. There are a lot of useful answers to questions that are also relevant to the assessor community set out under different headings. You may want to take some time to look through this page. We are well advanced to do a FAQ page in a similar format for assessors with common questions asked about application of the BAM, assessment reports and BOAMS.