



# Commencement of the Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Act 2024

**Biodiversity Offsets Scheme (BOS) Local Government  
Webinar Series**

**Webinar 3**

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Department of Climate Change, Energy, the Environment and Water



# Acknowledgement of Country

The Department of Climate Change, Energy, the Environment and Water acknowledges that it stands on Aboriginal land.

We acknowledge the Traditional Custodians of the land and water, and we show our respect for Elders past, present and emerging.

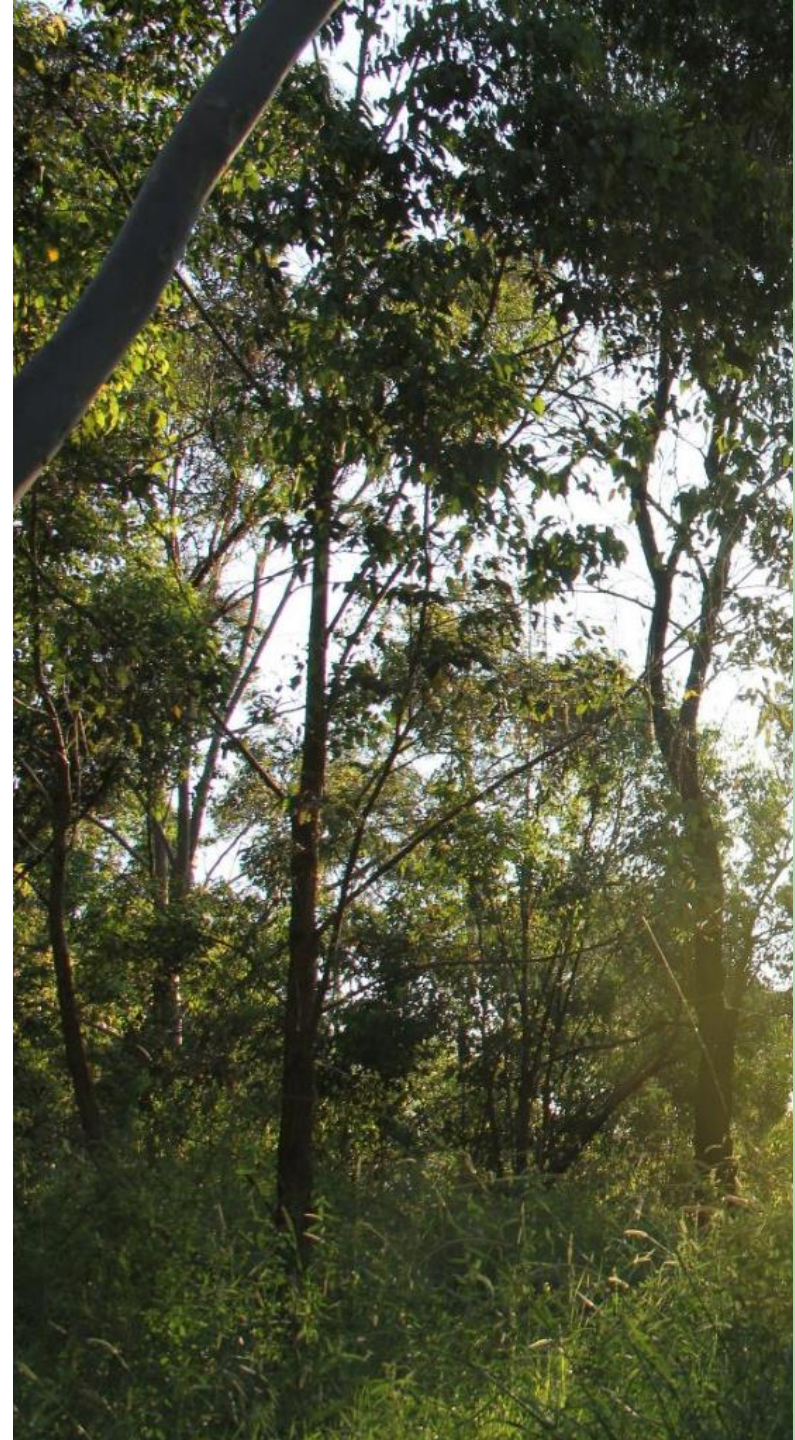
We do this through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Artist and designer Nikita Ridgeway from Aboriginal design agency –Boss Lady Creative Designs, created the People and Community symbol.



# Overview

- Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Act 2024
- Key reforms now in effect
- Key reforms with no immediate impact to local government
- Next steps – Regulation reforms and consultation



# NSW plan for nature

NSW Government  
response to the reviews  
of the *Biodiversity  
Conservation Act  
2016* and the native  
vegetation provisions  
of the *Local Land  
Services Act 2013*

July 2024



# Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Act 2024



- Implements reforms to the Biodiversity Offsets Scheme set out in the *NSW plan for nature*
- Bill passed by Parliament on 22 November, assented to 2 December 2024
- Most provisions came into effect 7 March 2025
- Regulatory amendments are now being developed to support the Amendment Act reforms and implement additional reforms in the *NSW plan for nature*

# Key reforms now in effect

# Switch off variation rules for proponents (s. 6.4(4))

## Now in effect

- The variation rules are no longer available to proponents and cannot be approved for use in conditions of consent
- Local development proponents will still have the option to purchase like-for-like credits, make a payment into the Biodiversity Conservation Fund or fund a conservation action
- The Biodiversity Conservation Trust can continue to use the variation rules
- Approvals issued before 7 March 2025 that explicitly allow use of the variation rules will not be impacted

Squirrel glider  
(Ken Stepnell/DCCEW)



# Staged offsetting for local development (s. 7.13(5))

Now in effect – clarifies existing policy intention

- Local development proponents can stage offsetting where a development is being progressed in stages
- The reforms clarified existing provisions that left uncertainty around the ability of local development proponents to stage offsets
- Staging offsets provides local development proponents additional flexibility and time

Swamp Sclerophyll Forest  
(Nick Skelton/DCCEEW)



# Options to meet biodiversity offset obligations (s. 6.4(4))

Now in effect – clarifies existing policy intention

- All proponents, including for local development may use the options under the offset rules (cl. 6.2 of the Biodiversity Conservation Regulation 2017) to meet a credit obligation
- The previous wording for local development was unclear
- The amendment clarifies that local development proponents may use the other options under the offset rules to meet their obligation, such as funding a conservation action
- The use of variation rules is no longer an option for proponents under the offset rules

Red-tailed phascogale, *Phascogale calura*  
(Laurence Berry/DCCEEW)



# Scheme exemptions for local development (s. 7.7(2))

## Now in effect

- The Minister for the Environment may now grant certain local development applications an exemption from the scheme in connection with a natural disaster or in exceptional circumstances
- The Minister is required to publish an exemption order detailing the grounds for the order, what development it relates to, and the reasons for the exemption, including consideration of ecologically sustainable development
- A new public register will also be established to track scheme exemptions.

Dorrigo National Park  
(John Spencer/DCCEEW)



# Biodiversity Assessment Method transitional arrangements (s. 6.8(3))

## Now in effect

- Savings and transitional arrangements now may be written into the Biodiversity Assessment Method (BAM) if it is remade or amended
- This amendment will allow the smooth transition between versions of the method
- Any future amendments to the BAM will be communicated with stakeholders before coming into effect

Brush-tailed rock wallaby, *Petrogale penicillata*  
(Sam Thomson/DCCEEW)



# Key reforms with no immediate impact to local government

# New public registers (s. 9.7)

In effect but no immediate impact – requires development of digital systems

- The Environment Agency Head is required to create and maintain registers to:
  - Track decisions to approve serious and irreversible impacts
  - Track offset obligations and if, when and how they are met
  - Report on measures to avoid and minimise biodiversity impacts
  - Record any local development exemptions
- Development of the digital systems needed to house the registers and integrate data from consent authorities has now commenced. The provisions will be non-operational until the digital systems are established.
- Once established, decision-makers will need to provide information generated from development or clearing decisions
- DCCEEW will work with Local Government to understand any new requirements before they take effect

Rusty Plum, Plum Boxwood  
(John Spencer/DCCEEW)



# Test of significance for local development (s. 7.2(3))

## Regulation-making power – no immediate impact

- The regulations may determine whether the test of significance applies as a trigger into the scheme for local development
- Government will consider changes to the entry thresholds for local development to balance the regulatory burden of the scheme for small, low-impact development with the biodiversity risks
- DCCEEW will consult on any potential changes to scheme entry thresholds through the regulatory amendment process.

Parris' bush-pea, *Pultenaea parrisiae*  
(Jackie Miles/DCCEEW)



# Biodiversity Values Map review process (s. 7.4(3))

## Regulation-making power – no immediate impact

- A formal process for landholders to request a review of the Biodiversity Values map for their property may now be established under the regulations
- Formalising the process in legislation will allow changes to the map from a review to take effect immediately
- DCCEEW will consult on the proposed review process through the regulatory amendment process.
- Existing administrative process for landholder-initiated reviews of the map will continue until regulatory amendments have been made

Awl-leaved wattle, *Acacia subulate*  
(John Spencer/DCCEEW)

# Strengthening avoid and minimise requirements (s. 6.3A, s. 6.12, s. 6.13, s. 6.16)

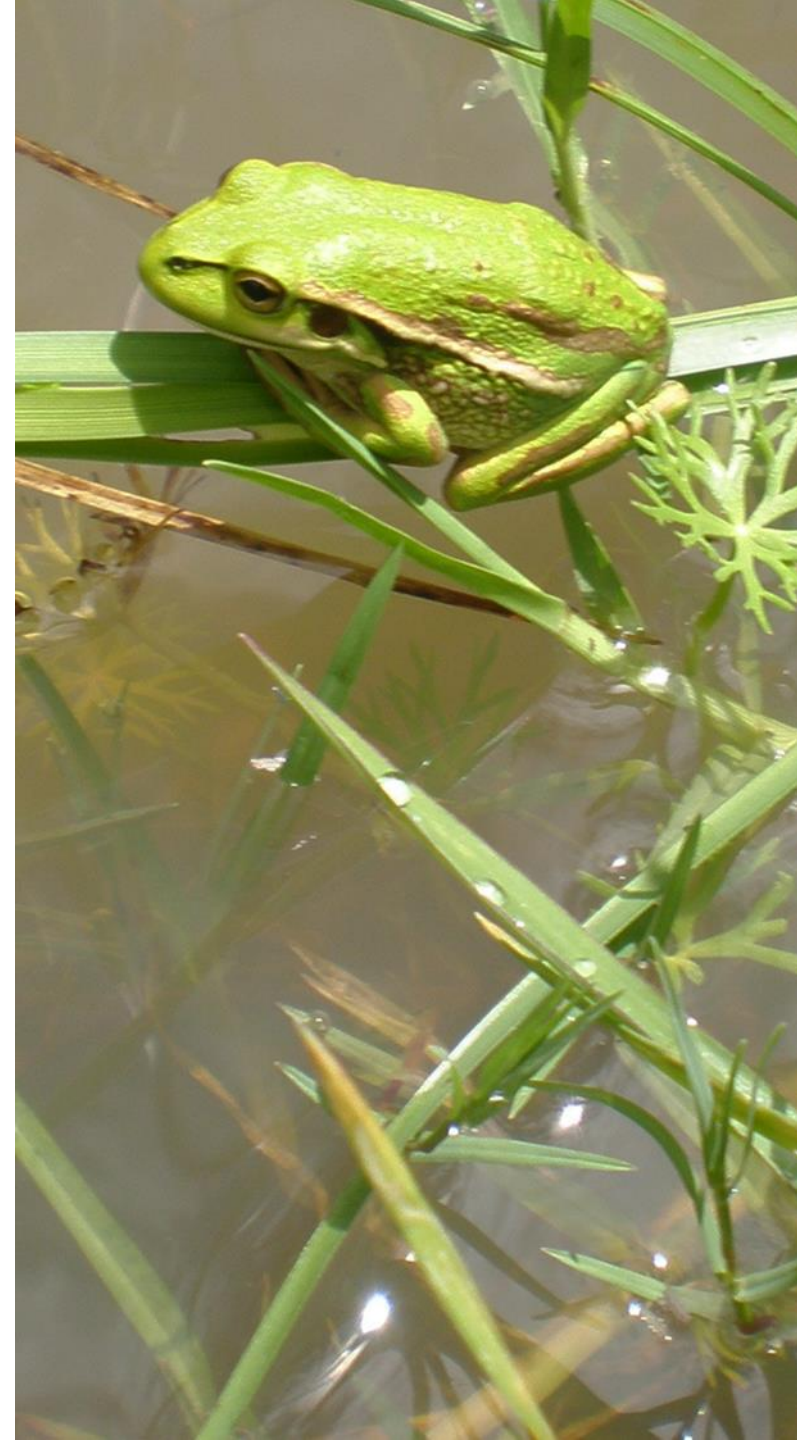
Commenced as a scheme principle:

- The avoid, minimise, offset hierarchy is now legislated and defined in the *Biodiversity Conservation Act 2016*

Not commenced – requires regulation amendments:

- The Amendment Act introduces new requirements for proponents to take ‘genuine’ measures to avoid and minimise and to include the measures in a Biodiversity Assessment Report
- It also allows the regulations to set standards for assessing ‘genuine’ measures
- These provisions will not commence until supporting regulations are made
- DCCEEW will develop and consult on the assessment standards as part of the regulatory amendment process

Green and golden bell frog, *Litoria aurea*  
(Doug Becker/DCCEEW)



# Restrictions on use of the Biodiversity Conservation Fund

(s. 6.30)

## Regulation-making power –no immediate impact

- The regulations can now provide for circumstances where a proponent cannot use the Biodiversity Conservation Fund to meet a credit obligation
- There are no restrictions on payments into the Fund on commencement – supporting regulations need to be made to give effect to this power
- DCCEEW will consult on any potential changes to accessing the Fund through the regulatory amendment process.

Central Hunter Ironbark  
(Stephen Bell/DCCEEW)

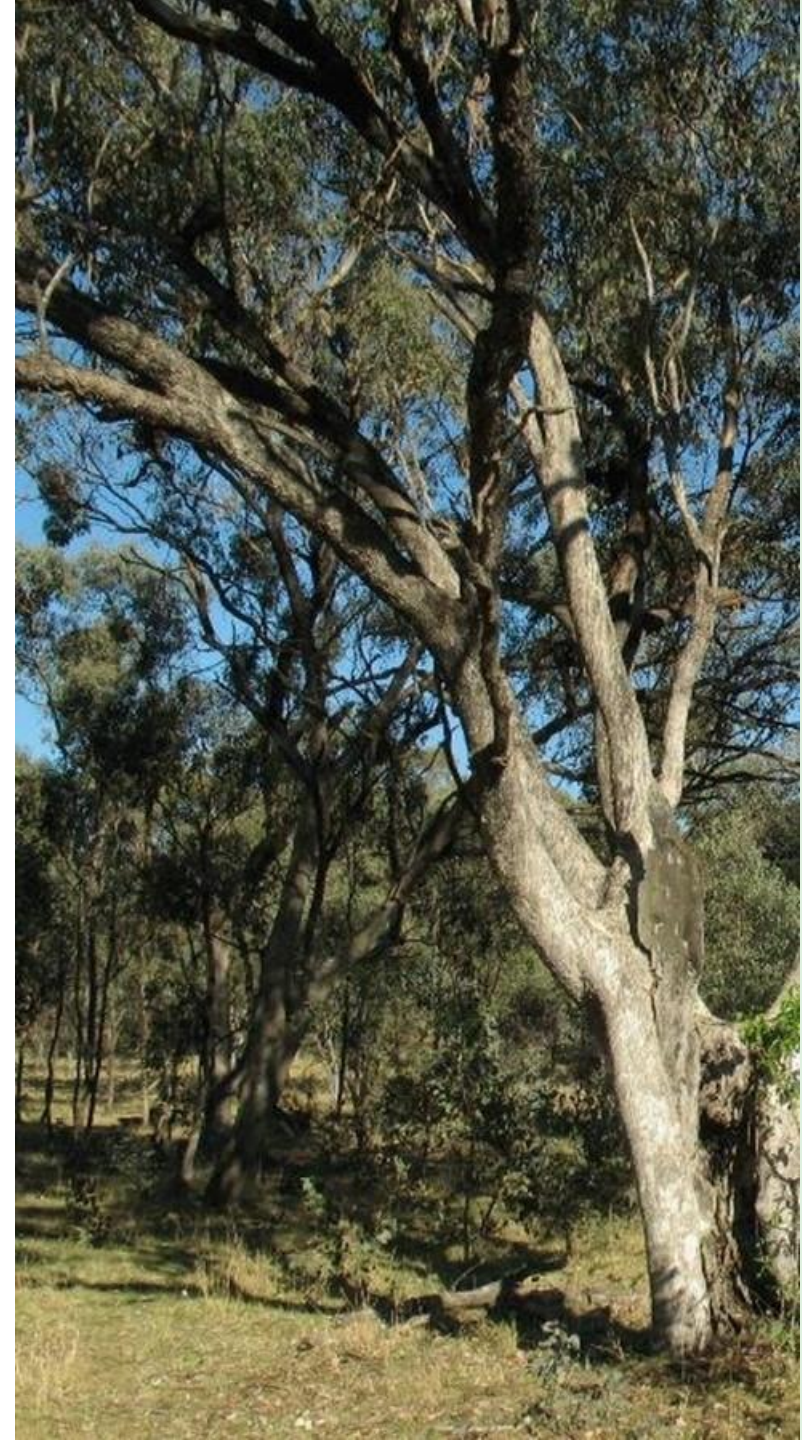


# Transitioning the scheme to net positive (s. 6.2A)

No immediate impact – strategy in development

- The Act requires the Minister to make, as soon as practicable, a strategy to transition the scheme to deliver net positive biodiversity outcomes
- The strategy must set out targets, timeframes and actions to transition to net positive
- The BAM must be updated to a net positive standard as soon as practicable after the strategy is made
- DCCEEW will consult on the draft strategy.

Box Gum Woodland  
(Jackie Miles/DCCEEW)



# Next steps – Regulation reforms and consultation



# Next steps – Regulatory reforms and consultation

- Regulatory amendments are needed to support the Act reforms and implement additional reforms in the NSW plan for nature
- Initial consultation will be undertaken on potential reform directions, with feedback informing development of a draft amendment regulation
- Public consultation will be undertaken on the draft regulation, supported by a Regulatory Impact Statement

Register for updates at:

<https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/news-and-updates/latest-scheme-updates-biodiversity-offsets-scheme>



Regent honeyeater  
(Mick Roderick/DCCEEW)

# Potential content of the Regulation

- Assessment standards for avoiding and minimising biodiversity impacts
- Changes to the entry thresholds for local development to reduce regulatory burden for small, low-impact development
- Provisions to reduce reliance on the Biodiversity Conservation Fund
- Potential changes to offset rules for ecosystem credits
- Provisions to support new public registers
- Biodiversity Values map review process

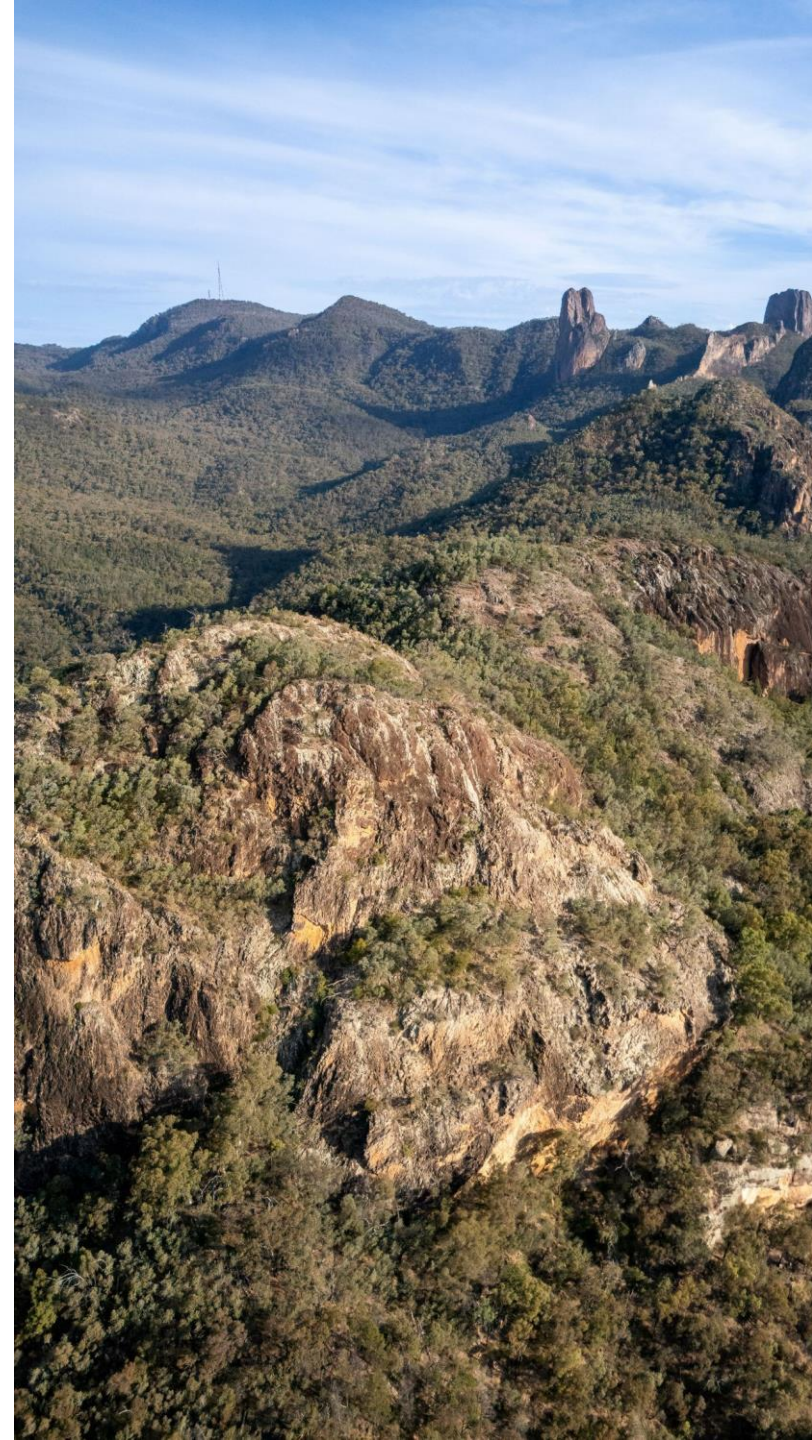
Brush-tailed rock wallaby  
(Jenolan Caves/DCCEEW)



# Take-home messages

- Most provisions of the Amendment Act commenced on 7 March 2025
- Consent authorities will no longer be able to approve use of the variation rules
- There are no immediate changes to avoid and minimise requirements, scheme entry thresholds or the ability to pay into the Biodiversity Conservation Fund, but changes will be considered as part of the regulatory amendment process
- Regulatory amendments are now being developed to support the Act reforms and will be consulted on this year

Image source: John Spencer/DCCEEW



# Q&A

If you have any questions relating to this Webinar, please submit them to the BOS Help Desk at [BOS.helpdesk@environment.nsw.gov.au](mailto:BOS.helpdesk@environment.nsw.gov.au)