



# Biodiversity stewardship agreement application guide

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We pay our respects to Elders past, present and emerging.

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# Contents

1.	Introduction	1
1.1	How to use this guide	1
1.2	Benefits of a biodiversity stewardship agreement	1
2.	What is a biodiversity stewardship agreement?	2
2.1	How to make a biodiversity stewardship agreement	3
3.	Getting started: factors to consider	4
3.1	Do I have in-demand credits?	4
3.2	What types of credits can I create and how many?	5
3.3	Pricing credits	5
3.4	Costs in establishing a biodiversity stewardship agreement	6
3.5	Other conservation options and programs	7
4.	Eligibility	8
4.1	Land in New South Wales where biodiversity stewardship agreements can be established	8
4.2	Biodiversity stewardship agreements on publicly owned land	8
4.3	How much land to include in a biodiversity stewardship agreement	9
4.4	Land with property interest holders	9
4.5	Existing conservation obligations	10
4.6	Landholder eligibility	10
5.	Preparing a biodiversity stewardship agreement application	12
5.1	Engaging an accredited assessor	12
5.2	Applying the Biodiversity Assessment Method	12
5.3	Preparing a management plan	13
5.4	Total fund deposit and costing your management plan	15
5.5	Submitting a biodiversity stewardship agreement application	17
5.6	How applications are assessed	19
5.7	Signing and registering an agreement	19
5.8	Issuing of biodiversity credits	20
6.	After your biodiversity stewardship agreement is approved	21

6.1	Selling your credits	21
6.2	Advertising your credits	21
6.3	Retiring credits	21
6.4	Paying the total fund deposit	22
6.5	Implementing the management plan	22
6.6	Tax	23
6.7	Varying a biodiversity stewardship agreement	25
6.8	Terminating an agreement	25
6.9	Selling land subject to an agreement	26
<b>Appendix A: Completing the application form</b>		<b>27</b>
	Landowner and contact details	27
	Property interest holders on the land	28
	Existing conservation and offset obligations	29
	Aboriginal cultural heritage	30
<b>Appendix B: Guidance for accredited assessors</b>		<b>32</b>
	Managing conflicts of interest	32
	Defining the boundary of the site	33
	Using the BSSAR template	34
	Using the management plan template	35
<b>Appendix C: Varying a BSA</b>		<b>38</b>
	Preparing an application to vary a BSA	38
	Variations that add new or additional biodiversity credits	38
	Submitting an application for other types of variations	39
	Application fees to vary a BSA	40
	How applications to vary a BSA are assessed	40
<b>Appendix D: List of abbreviations</b>		<b>41</b>

## List of tables

Table 1	Average total fund deposit per hectare and typical range for existing BSA sites in Greater Sydney and non-Sydney regions	6
Table 2	Payment methods and account information for paying the total fund deposit	22
Table 3	Land ownership category and providing an ABN or ACN	27
Table 4	Types of conservation obligations and where to obtain information	29
Table 5	Responsibility for assessing and processing BA/BSA variations	38
Table 6	Definitions of abbreviations in the BSA application guide	41

## List of figures

Figure 1	Biodiversity stewardship agreement process overview	3
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# 1. Introduction

This *Biodiversity stewardship agreement application guide* provides information for anyone interested in establishing a biodiversity stewardship agreement (BSA) and for accredited assessors working with landholders to establish BSAs. The guide includes an overview of the processes involved and information that can help you establish a BSA.

## 1.1 How to use this guide

You can read the whole guide to become familiar with the complete BSA process or read just the sections that are relevant to your current stage.

This guide may be updated from time to time. If you need more information or have any questions, you can find more information on our website or contact us by email:

- visit the Environment and Heritage website at [Generate credits with a biodiversity stewardship agreement](#)
- email us at [stewardship@environment.nsw.gov.au](mailto:stewardship@environment.nsw.gov.au)

A list of abbreviations can be found in Appendix D of this guide.

A list of key terms is also available on the Environment and Heritage website at [Offsets scheme glossary of terms](#).

We encourage landholders interested in establishing a BSA to seek independent legal, financial and taxation advice. You can also seek advice from an accredited assessor.

## 1.2 Benefits of a biodiversity stewardship agreement

A BSA creates biodiversity credits you can sell through the NSW biodiversity market to fund the management of weeds, pests, and fire and ecological restoration.

For landholders, the benefits of having a BSA include:

- securing ongoing funding for managing your BSA site's biodiversity values
- protecting native plants and animals
- creating biodiversity credits that can be sold
- being exempt from paying land tax on the land designated as a BSA site.

You can read more about the experiences of other landholders who have established BSAs on the [Case studies and landholder stories webpage](#).

## 2. What is a biodiversity stewardship agreement?

A biodiversity stewardship agreement (BSA) is a legal agreement between the owner of the land and the Minister responsible for the *Biodiversity Conservation Act 2016* (NSW) (BC Act). The BSA establishes the biodiversity stewardship site and creates biodiversity credits.

A BSA specifies the area (or areas) of land to which the agreement applies and is registered on the title of the land. The landholder chooses the area (or areas) of land to be placed under agreement when applying for a BSA.

A BSA includes:

- the number and type (or types) of biodiversity credits created
- the payment schedule from the Biodiversity Stewardship Payments Fund and total fund deposit (TFD) established through the sale of credits
- a management plan for the site that covers plant communities, threatened species, weeds, pests, grazing, fire and disturbance as well as monitoring
- legal terms and conditions and reporting requirements.

More information about what is included in a BSA is set out in the [BSA template](#).

Under the Biodiversity Offsets Scheme (BOS), a BSA creates biodiversity credits that can be sold or used to offset the loss of biodiversity values resulting from development. Credits can also be purchased to invest in conservation outcomes for philanthropy, corporate social responsibility or as part of a government program.

More information about the BOS can be found on the [About the Biodiversity Offsets Scheme webpage](#).

### **What are biodiversity credits?**

Biodiversity credits represent the expected improvement or gain in biodiversity values for both ecosystems and threatened species habitat suitability.

The types of credits you will be able to create depend on the species and ecosystems on your BSA site.

The number of credits depends on the ecological condition at the time of establishing the BSA and the management actions you include in your BSA to improve biodiversity values.

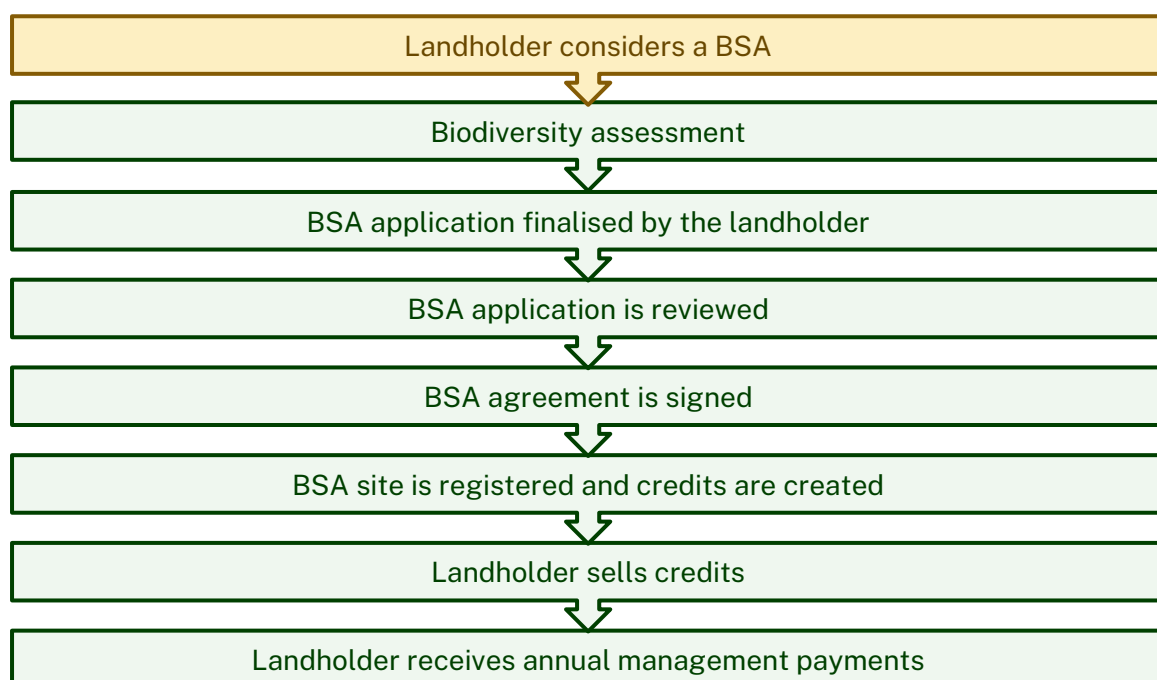
## 2.1 How to make a biodiversity stewardship agreement

Landholders can apply for a BSA using the [BSA application form](#).

For more information on BSA applications see:

- section 3 – factors to consider
- section 4 – eligibility
- section 5 – preparing a BSA application including a management plan (Section 5.3)
- Appendix A – documents that may be required to support your application.

An overview of the BSA process – from application and assessment to selling credits and receiving annual payments – is depicted in Figure 1.



**Figure 1** Biodiversity stewardship agreement process overview

### 3. Getting started: factors to consider

If you are interested in establishing a biodiversity stewardship agreement (BSA) for your land, there are several factors you need to consider. This is an important step in deciding if a BSA is right for you.

Preparing a business case or any formal documentation is not essential, but you should consider the number and type of credits that can be created. You should also consider whether the credits you can create are in demand, how much they could be sold for, as well as costs and other options.

#### 3.1 Do I have in-demand credits?

For most landholders, being able to sell credits is an important reason for entering into a BSA. Credits will only sell if they are in-demand. 'In-demand credits' are biodiversity credits needed within the next few years by potential buyers of credits.

There are a few cost-free ways to determine if you have potential to generate in-demand credits:

- The [Current in-demand credits list](#) shows Interim Biogeographic Regionalisation for Australia (IBRA) subregions with high demand, in-demand ecosystem credits and in-demand species credits.
- The [In-Demand Credits Map](#) shows the potential location of in-demand offset trading groups (OTGs) in IBRA subregions with high demand for ecosystem credits. Enter an address into the search tool and find out if that location might have in-demand credits.
- The [Credits Near Me NSW app](#) helps landholders identify the types of biodiversity credits they may be able to create and sell, and whether there are people looking to buy these types of credits.
- Through the [Stewardship Support Program](#), you may be eligible to receive a free desktop assessment of your land to see if it is likely to have in-demand credits. This can be one of the first steps you take in establishing a BSA site on your property.

Other sources of demand include the Wanted Credits list available from the NSW Biodiversity Conservation Trust (BCT) [Credits Offer Portal](#), the [Biodiversity Offset Scheme \(BOS\) public registers](#) and the [Biodiversity Credits Demand and Supply Dashboard](#).

## 3.2 What types of credits can I create and how many?

Accredited assessors will apply the Biodiversity Assessment Method (BAM) to determine the number and types of credits you can create from your proposed stewardship site. See section 5 of this guide for more information on assessment.

The number of credits that can be created depends on area, the condition of your site (vegetation integrity) and its connectivity to other areas of habitat, as well as the number of different types of threatened species, which usually stack on top of ecosystem credits. However, the area for species credits may be smaller if only part of the site is suitable for threatened species.

You can make your own estimate of the number of ecosystem credits you could potentially create. To do this, first consider the size of the proposed site, and then calculate a minimum of 3.4 credits per hectare and a maximum of 7.6 credits per hectare.

These numbers reflect a typical range of the number of ecosystem credits that can be created through a biodiversity stewardship agreement. You could also seek advice from an accredited assessor to estimate the number and type of species credits.

## 3.3 Pricing credits

Once you know what type (or types) of credits you can create and how many, you will want to know how much you can sell them for. Pricing credits is up to you, but you should seek to cover your total fund deposit (TFD) and your establishment costs to set up the BSA. The TFD creates the ongoing funding stream for the BSA site's management actions, which will increase biodiversity values (see sections 5.4 and 6.3 for more information on the TFD). You should also consider tax implications (see section 6.5).

You can decide on a different price for each credit type or work out an average price that you want to sell your credits for, factoring in the number of credits you are creating and the costs to establish your BSA (see section 3.4).

You can also consider the range of previous sales for your type (or types) of credits, or similar credits. You can find this information on the [Biodiversity Credits Market Sales Dashboard](#). The dashboard contains prices based on previous credit sales, including weighted price averages using information from the BOS's public registers. If a credit you are creating has not sold before, you can look at sales for credits in a similar area. For more information, refer to the [Biodiversity Credits Market Sales Dashboard: User guide](#).

For additional guidance you can also refer to the [Biodiversity credit pricing guide](#).

You should not use Biodiversity Conservation Fund (BCF) charge quotes or the Biodiversity Offsets Payment Calculator (BOPC) to price your credits as these are unsuitable for this purpose and do not reflect market prices.

### 3.4 Costs in establishing a biodiversity stewardship agreement

In pricing credits, you will probably want to ensure the costs to establish your BSA are covered. Costs generally include:

- the costs of biodiversity assessments and professional advice – for example, financial and legal advice and tax (see section 6.5)
- land cost, which can be factored in, although not all landholders include this as the land stays in their ownership
- profit and risks – that is, businesses make profit usually because of the pricing of risks and returns. You can factor in your preferences for profit and price in your risks as part of pricing credits. However, you will also need to consider market sales history so that your profit expectations are within the range of previous market sales
- administrative fees, such as the BSA application fee.

You should also consider the TFD (see sections 5.4 and 6.3), which is money set aside from the sale of credits and paid back to the landholder, or future landholders, in annual management payments. This may be paid by the buyer of your credits.

**Table 1 Average total fund deposit per hectare and typical range for existing BSA sites in Greater Sydney and non-Sydney regions**

Region		BSA size category (hectares) and total fund deposit (\$)					
		<30	30–50	50–100	100–200	200–500	500+
Greater Sydney	Average per hectare	\$127,000	\$78,400	\$41,600	\$28,300	NA	NA
	Range per hectare	\$62,000– \$191,000	\$40,000– \$125,000	\$16,000– \$60,000	\$20,000– \$37,000	NA	NA
Other NSW	Average per hectare	\$47,700	\$22,500	\$14,500	\$10,000	\$6,200	\$3,400
	Range per hectare	\$24,000– \$76,000	\$10,000– \$33,000	\$7,000– \$23,000	\$5,000– \$14,000	\$4,000– \$9,000	\$2,000– \$5,000

Source: NSW Biodiversity Conservation Trust, May 2024

### 3.5 Other conservation options and programs

You may also want to consider other options, including other natural capital programs or carbon farming.

Due to Australian Government regulations, carbon projects cannot be on the same area of land as a BSA. However, a BSA and a carbon project could exist side by side – for example, a carbon project could be established on cleared land while a BSA is established on adjacent land where native ecosystems are being restored. Depending on the type of carbon project scheme and the management requirements, land under the carbon project may be included and management within a BSA as a non-credit generating area.

Landholders are also likely to consider land uses other than a BSA site, including agricultural or development activities. If land value is high because other profitable uses are possible – for example, land zoned for development – a BSA may not be a profitable option for the landholder.

## 4. Eligibility

### 4.1 Land in New South Wales where biodiversity stewardship agreements can be established

A biodiversity stewardship agreement (BSA) can be established on most land in New South Wales as set out in the *Biodiversity Conservation Act 2016* (NSW) (BC Act) and Biodiversity Conservation Regulation 2017.

Sometimes, due to the past use of the land, its size or neighbouring land use, it is unlikely that biodiversity values will improve, even under management as a biodiversity stewardship site. In such cases, no credits can be generated from that area or, alternatively, the area is excluded from the BSA. Examples include areas with extensive ground disturbance, contaminated land or small areas surrounded by residential development.

Land is not eligible if:

- the current, previous or proposed use is inconsistent with biodiversity conservation or prevents management actions from being carried out – for example, land is polluted and cannot be remediated or is subject to processes that are not within the control of the landholder
- the site has already been used as a biodiversity offset – for example, a set aside under the *Land Management (Native Vegetation) Code 2018* (NSW), a clearing property vegetation plan or an area retained to offset clearing as part of a subdivision or a condition of consent.

### 4.2 Biodiversity stewardship agreements on publicly owned land

A BSA can be established on publicly owned land if approval has been granted by the landholder, including:

- land owned by local government
- land within New South Wales owned by the Australian Government
- Crown land where that land is under the control of:
  - an individual, company or trustee with a Crown lands lease or Western lands lease
  - a government department or public authority
  - a public authority that is not a government department
  - local government.

Crown road reserves, including ‘paper roads’ within private property, cannot be included in a BSA as the land is not owned by the landholder. You may seek to close the road and have ownership transferred to you. Refer to [Information about Crown Roads](#) for more information.

The [NSW Planning Portal Spatial Viewer](#) identifies Crown road reserves as ‘Crown land’. Alternatively, deposited plans may show Crown roads within or next to your private property.

A BSA cannot be established on land that is reserved under the *National Parks and Wildlife Act 1974* (NSW) or land that is a flora reserve under the *Forestry Act 2012* (NSW).

### 4.3 How much land to include in a biodiversity stewardship agreement

As the landholder, you decide which parts of your property and the area to include in your BSA.

There is no minimum size for a BSA. However, small sites may not be of a suitable size and configuration. Smaller sites, such as those in peri-urban areas or narrow linear sites, are likely to need more intensive and costly management in the long term, which may reduce the financial viability of the site (see section 3).

You should consider what other plans you may have for the property and exclude areas you may want to use for other purposes – for example, agricultural production or tourism, dwellings, sheds and infrastructure.

If part of your land is covered by an easement, you may be able to include that area within the BSA but there may be limitations on creating credits from that area. An easement giving another landholder or a statutory authority a legal right to use an area of your property, where this use may not allow for restoration and gain in biodiversity values, may need to be excluded.

Easements not registered on title where the landholder has control over the land can be included within the BSA, such as a ‘right of carriageway’ or some easements for powerlines or stormwater. You or your accredited assessor should discuss with us whether it is possible to create ecosystem or species credits in that area, as this may depend on the management requirements that best suit those species or ecosystems.

### 4.4 Land with property interest holders

Where land has a property interest holder, written consent from the interest holder is required for the BSA to proceed. We recommend that you obtain this consent early in the process and ahead of developing your application. Written consent is to be submitted with your application and will be provided to NSW Land Registry Services to register the BSA.

The most common property interests are mortgagees, leaseholders and other caveators listed on the property title. The Land Registry Services website provides information on the purpose of [caveats](#), how they are treated and what consent from the caveator is required.

The most common caveat is where a mortgage exists for the land proposed as a BSA. A mortgagee consent and caveat consent sample letter and frequently asked questions can be found on the [Applying for a biodiversity stewardship agreement webpage](#). We

can also provide you with advice where leaseholders and other caveators have any questions about the BSA.

You can also provide your financial institution with the [Seeking mortgagee consent for a biodiversity stewardship agreement frequently asked questions document](#). If required, we can meet with your financial institution to answer any questions about the proposed BSA.

Where the land is subject to a mining lease or mineral claim over the land under the *Mining Act 1992* (NSW) or production leaseholders under the *Petroleum (Onshore) Act 1991* (NSW), you will require written consent from the leaseholder to establish the BSA.

[NSW Resources](#) (NSWR) can confirm any mining-related titles present on your land and provide you with contact details of the titleholder. NSWR, via the department's biodiversity stewardship team, can also collaborate in this capacity and is responsible for consulting with titleholders on specific matters. We can provide you with support in negotiating with mining leaseholders if needed.

Landholders can also undertake a preliminary search of mining-related titles through the [MinView](#) or [Sharing and Enabling Environmental Data \(SEED\)](#) portals. To see current exploration and mining titles, as well as applications for coal, petroleum and mineral titles, add all title types from the 'layers' menu.

Where there are other mining titles such as exploration licences and/or assessment leases, we will undertake consultation with these exploration licence and lease holders as part of the process to prepare a BSA.

## 4.5 Existing conservation obligations

If you have an existing legal obligation to manage or conserve biodiversity on the land you have proposed for a BSA, biodiversity credits can be generated only for management actions that are in addition to those already required.

The reduction in credits resulting from existing obligations will be calculated by your accredited assessor as part of the biodiversity assessment and checked during the processing of your BSA application. This reduction is referred to as 'additionality'.

Examples of existing obligations to conserve biodiversity include conservation agreements and public reserves. A full list of existing obligations is set in section 11.9 of the BAM.

## 4.6 Landholder eligibility

Only the person (or persons) or entities who legally own the land, as shown in a title search, can establish a BSA. An application for a BSA can be made by another person if they have approval from the legal owner of the land to make the application.

### 4.6.1 Land owned by more than one person or entity

For land where more than one person or legal entity is listed on the title search – for example, a partnership or 2 or more companies – the BSA must be signed by all landholders listed on the title search.

If landholders are working together – for example, on adjoining lots with different landholders – the landholders may develop their BSA and management plan together. This can lower the cost of assessment and management. However, each landholder needs a separate BSA for their land.

#### 4.6.2 Land held by a trustee

If the land is held by a trustee, the trustee can enter into the BSA by submitting evidence of legal authority with the BSA application. The agreement is entered into by the trustee in both its capacities – that is, as a company and as a trustee.

#### 4.6.3 Land owned by a company or corporation

If the site is owned by a company or corporation, the BSA must be signed by 2 office holders named in the ASIC organisations and business names search extract – for example, 2 directors, a director and a secretary or the sole director/secretary. In the case of a proprietary company with a sole director who is also the company secretary, the BSA can be signed by just one person.

#### 4.6.4 Land owned by a public entity

For a council or government agency, an employee with the appropriate delegation to enter into land dealings can sign the BSA.

#### 4.6.5 Land owned by the Crown

Where the BSA encompasses Crown land, including land under a Crown or Western lands lease, the leaseholder will sign the final BSA. We will then arrange for the Minister responsible for Crown lands or their delegate to sign the BSA, abstract and '13NP' conservation agreement form. It is recommended that you contact Crown Lands prior to preparing a BSA to seek consent from Crown Lands to the establishment of the BSA.

#### 4.6.6 Fit and proper person test

All individuals or legal entities seeking to enter into a BSA must meet the fit and proper person test under section 5.3 of the Biodiversity Conservation Regulation 2017. This ensures the landholders have:

- the ability to undertake or project manage work required under the BSA
- financial capacity to comply with the proposed BSA
- not contravened environmental legislation – for example, clearing native vegetation or threatened species habitat contrary to legal requirements
- not been convicted of an offence involving fraud or dishonesty
- not been an undischarged bankrupt or, for a corporation, not been the subject of a winding-up order or had a controller or administrator appointed to manage it over the previous 3 years.

## 5. Preparing a biodiversity stewardship agreement application

### 5.1 Engaging an accredited assessor

Accredited assessors are ecologists who are trained and accredited under the *Biodiversity Conservation Act 2016* (NSW) (BC Act). You can find an accredited assessor through the [accredited assessors register](#). Before engaging an accredited assessor, you should also consider the ability to sell biodiversity credits (see section 3) to ensure the cost of the assessment is worthwhile.

To prepare your biodiversity stewardship agreement (BSA) application, you will need an accredited assessor to:

- assess the types and number of biodiversity credits you can create using the Biodiversity Assessment Method (BAM – see section 5.2), and certify the results set out in a Biodiversity Stewardship Site Assessment Report (BSSAR)
- prepare a management plan with your input (the management plan sets out the actions you must implement to improve biodiversity values on the site).

You can also ask your accredited assessor to cost your management actions, complete the total fund deposit (TFD) calculator (see section 5.4) and prepare the BSA application. Alternatively, you can do this yourself.

The accredited assessor will need to be available to answer any questions on the BSSAR or management plan while your application is under assessment and may need to make changes if required. We recommend you include this in the scope of work when you engage an accredited assessor.

### 5.2 Applying the Biodiversity Assessment Method

As part of preparing a BSSAR, the accredited assessor will use the BAM to:

- map vegetation and measure condition of the vegetation compared to benchmark examples of the same vegetation, using plots located within the mapped areas
- use various methods to determine the threatened species present on site, including visual inspection, transects, sound recordings, cameras and potentially fauna mark/release traps.

Depending on the size and accessibility of your proposed BSA site, an accredited assessor may spend anywhere between one day to several weeks surveying the land. If there is strong potential to create credits for threatened species, the accredited assessor can survey for these species to confirm their presence.

For many species surveys can be done only at a specific time of day, such as the evening or night, or at a specific time of year – for example, when a plant species is flowering. The accredited assessor needs to follow specific guidelines for survey methods, as well as for the requirements of their accreditation.

Where a species is confirmed to be present, the assessor will determine their area of habitat (described as a 'habitat polygon') or the number of individual tree or shrub species. This will help assess how many credits can be created.

The accredited assessor will use the Biodiversity Assessment Method Credit Calculator (BAM-C) to produce the biodiversity credit report. The biodiversity credit report lists the number and type of biodiversity credits that are proposed to be created and, for ecosystem credits, identifies their offset trading group (OTG) and threatened ecological community (TEC) status. The biodiversity credit report will form part of the BSSAR.

The accredited assessor should provide you with the BSSAR, biodiversity credit report, survey data and maps. This could be useful if you or future landholders seek to expand the stewardship site or add credits. Data up to 5 years old can be used to vary a BSA (see section 6.6).

## 5.3 Preparing a management plan

A BSA management plan specifies the management actions to protect and restore ecosystems and habitat for threatened species on the site.

As the landholder, you should have significant input into the management plan to ensure you are comfortable with its implementation and the types of management actions it contains.

You can prepare a draft of the management plan for your accredited assessor to approve or, alternatively, you can develop the management plan with your accredited assessor.

The management plan will include:

- the management actions to cause biodiversity gain for the creation of biodiversity credits under the BSA, which can include active restoration and performance measures
- an operations schedule that outlines the details and timing of the required works
- maps showing where on the site the management actions are to be carried out
- a reference to the amount in the TFD to show how much money can be spent on each management action.

A management plan template and a library of management actions is available to assist in developing a management plan for your BSA (see Appendix B).

The proposed management plan for the BSA forms part of the BSSAR and is submitted as part of the BSA application. Changes to the management plan may be made in consultation with you and the accredited assessor as the BSA application is assessed. The final management plan will be attached to the BSA.

The management plan should seek to avoid any adverse impacts on cultural heritage, including Aboriginal objects and places. If any impacts are potentially significant, landholders should seek independent advice from a relevant heritage expert.

### 5.3.1 Management actions

The management plan will contain management actions to improve the condition of ecosystems and habitats for threatened species on your BSA site. This could include:

- protecting native vegetation and replanting (see section 5.3.2 on active restoration)
- protecting threatened species habitat and breeding sites, reducing or removing threatening processes and restoring habitat – for example, providing additional nesting sites or increasing shelter such as areas of dense vegetation or fallen logs
- controlling and eradicating existing weeds present on the site, including specifying techniques for their management and control, proving timing and identifying the location of weed control activities, and preventing further spread
- pest and feral animal control activities to target the pest species likely to be on the site, including baiting, culling, biological control and physical control or reduction in pest carrying capacity – for example, ripping up burrows, shooting, removal of water points or construction of physical barriers such as fences
- strategic use of stock grazing, or using grazing to enhance the diversity, cover and native flora species, as well as to manage weeds and promote natural regeneration
- addressing human disturbance by removing waste, rubbish and structures, limiting human disturbance and access by maintaining boundary fences, signage or other structures, improving fire trails and access tracks, maintaining natural water flow and preventing erosion and sedimentation
- using ecological burns, including cultural burns, to help stimulate plant regeneration, control weeds and enhance biodiversity, taking into account the site's burn history and the fire regime suitable for the plant communities and threatened species present. Ecological burns typically use a mosaic pattern of different burn intervals to limit impacts and maximise benefits for native flora and fauna.

#### **Additional information about stock grazing**

The management plan will specify how stock grazing is to be:

- confined to appropriate grassy ecosystems
- excluded from riparian and other environmentally sensitive areas
- undertaken during defined times to allow native species to flower, set seed and germinate to encourage native plants
- in keeping with maintaining the ground cover in a healthy condition, considering seasonal, climatic and site conditions
- managed to achieve biodiversity outcomes rather than for agricultural production purposes.

### **Additional information about burning**

Burning should be undertaken only when and where it is safe to do so without major risk to property, infrastructure or biodiversity that is sensitive to fire. Ecological burns should not occur if the terrain, site or proximity to property and infrastructure could impact control or containment of burns. Ecological burns must be carried out in accordance with Bush Fire Environmental Assessment Code – Supporting Document, Rules and Notes for Implementation of the Threatened Species Hazard Reduction List mandated by the NSW Rural Fire Service.

### **5.3.2 Active restoration management actions**

Active restoration management actions can generate additional credits. These include replanting native flora to restore plant communities and increase native vegetation cover, reintroducing natural flow regimes or re-establishing habitat features needed by threatened species.

Your accredited assessor can help you work out if these actions are suitable for your site and the number and type of additional credits that could be generated. In some cases, additional expertise from specialists may be needed to ensure that the restoration activities are practical and achievable.

### **5.3.3 Monitoring and adaptive management**

The management plan includes requirements for monitoring the BSA site over time. This occurs on an annual and 5-year basis.

The landholder is required to provide an annual report to the NSW Biodiversity Conservation Trust (BCT) in accordance with the BCT's template, including taking photos of the site at defined locations (photo points).

Every 5 years more detailed ecological monitoring is required, as set out in the BSA and management plan. This monitoring is needed to track the gain in biodiversity values and the condition of the plant communities and threatened species habitat. The results can be used to review the management plan and adapt requirements to suit changing conditions or address new priorities. This may involve a formal variation to the BSA.

## **5.4 Total fund deposit and costing your management plan**

The total fund deposit (TFD) is the sum of your management action costs on an ongoing basis. The TFD amount is paid into the Biodiversity Stewardship Payments Fund (BSPF), usually as part of the sale of your credits, or if the credits are retired without first being sold. Once the TFD is paid in full, it is then repaid to the landholder in accordance with the annual payments schedule in the BSA.

### 5.4.1 Calculating the total fund deposit

The TFD amount is based on a cost estimate for each management action and the frequency of those actions. You may need to obtain quotes or advice from specialists to do this.

You will need to use the TFD Calculator. The items set out in the TFD Calculator should align with the operations schedule set out in the management plan as this is the basis for developing the annual payment schedule contained in the BSA. More information on how to do this is included in the TFD Calculator and in the management plan template.

Costs should be based on the price of a contractor or specialist undertaking the work, even when you may be able to undertake management actions yourself. This is in case you need help to undertake management actions in the future. It also ensures that if you sell your property, the new landholder can implement management actions.

The information you will need to calculate your TFD includes:

- cost for each management action excluding inflation (the calculator will automatically add inflation)
- the year or years in which you plan to implement the action (start and end year) as set out in the operations schedule section of the management plan
- whether the action is recurring or ongoing – for example, every year or every fifth year
- other costs including insurance, rates, project management and reporting.

Other things to note in developing your TFD:

- The TFD Calculator takes into account inflation, and the payment schedules which are in each BSA are adjusted for Consumer Price Index (CPI) increases.
- You should ensure the TFD covers the cost of management actions. If the TFD does not sufficiently cover the cost of the management actions, you any future owners of the site must still implement the management plan and comply with the BSA.
- The costings in the TFD Calculator will be checked as part of the BSA application to ensure you have made reasonable provision for the work to be carried out. You may need to have a good understanding of the details of the management actions before you can cost these.

### **Example: developing a TFD for 200 hectares in moderate to good condition**

Note: This is a simplified and general example. Each site should be costed based on the needs of that site.

The management plan for the 200-hectare site includes woody weed and pest control and fencing to control disturbance and human activity. There are no other management actions for this site.

Weed and pest management on this site has 'intensive' and 'ongoing' phases. The intensive phase begins in Year 1 and ends in Year 5 with management actions carried out in each of those years. The ongoing phase begins in Year 6 and continues every year in perpetuity. A larger amount of money is allocated to weed and pest management during the intensive phase compared to the annual amounts during the ongoing phases. During the intensive phase, labour, machinery and material inputs and costs are at their highest to remove and control the woody weed cover. During the ongoing phase, input and costs scale down to support secondary and follow-up control measures.

Fencing of the site is required and needs to be maintained. Funding of material and labour to install a boundary fence around the BSA site is planned over the first 2 years. A lower amount for material and labour to maintain the boundary is then an annual cost in the TFD starting in Year 5.

Insurance, council and Local Land Service (LLS) rates, project management and reporting are also being included in the TFD Calculator. Insurance covers the cost of replacing fences if there is a natural disaster or other damage. The project management takes into account the time needed to organise contractors or reporting. The annual report fee must be paid to the NSW Biodiversity Conservation Trust for monitoring and compliance (this is built into the [TFD Calculator](#)).

Even though the landholder plans to undertake most of the management actions, reporting and project management, the costs for weed control and fence installation are based on a contractor doing them. This ensures the landholder, or a future landholder, will have capacity to implement the management actions if unable to carry them out themselves.

## **5.5 Submitting a biodiversity stewardship agreement application**

Before submitting your BSA application, you or your accredited assessor (or both) can meet with us as part of a presubmission step to discuss and address any concerns or potential issues. This can include:

- Confirming if you need to consult with your local council to confirm that no existing offset arrangements apply to the proposed BSA site,

- Discussing any issues regarding the BSA boundary, including easements or the location of infrastructure such as sewer or water supply or underground assets by making a [Before You Dig Australia \(BYDA\) search](#)
- discussing any issues that need to be resolved early (including before detailed biodiversity assessment work on your site is undertaken)
- addressing any final issues when you have a draft BSSAR, management plan and TFD ready.

To request a presubmission meeting, please email us at [stewardship@environment.nsw.gov.au](mailto:stewardship@environment.nsw.gov.au)

### 5.5.1 Ensure your application is complete

To make a BSA application, you will need to provide a completed:

- application form, which addresses eligibility requirements (see section 4)
- BSSAR, certified by an accredited assessor, including a biodiversity credit report from BAM-C, and GIS shapefiles for any maps and plot data
- management plan, including any maps and GIS data
- TFD calculation
- other supporting documents required for your application, such as proof of land ownership (title search), written consent from any property interest holders (see section 4.4) and eligibility checks through consultation with your local council and Local Land Services (LLS). See Appendix A and section 4 of the application form for more information on the supporting documents.

Your BSA application should be submitted online through the [Biodiversity Offsets and Agreement Management System](#) (BOAMS). You will need a [BOAMS account](#) to use this system, or your assessor can submit the application on your behalf.

Your application will be checked for completeness at our virtual front counter. This can also be used to discuss when your BSA needs to be finalised, including to meet credit sale or retirement timeframes.

To arrange a virtual front counter meeting, or for assistance completing the application form, or uploading documents, please email [stewardship@environment.nsw.gov.au](mailto:stewardship@environment.nsw.gov.au)

### 5.5.2 Application fee

The fee to apply for a biodiversity stewardship agreement is \$3,100. Additional information about fees related to entering into or varying a BSA can be found on the [Biodiversity Offsets Scheme fees webpage](#).

The BSA application form provides guidance on how to make payment. If you have questions about the application fee or payment, please email [stewardship@environment.nsw.gov.au](mailto:stewardship@environment.nsw.gov.au)

## 5.6 How applications are assessed

Each BSA application is reviewed for eligibility and to ensure the BAM has been correctly applied to your site by the accredited assessor, including that the:

- area of the biodiversity stewardship site and the number and type of biodiversity credit types are consistent with the BAM
- management plan and actions are appropriate
- TFD is adequate to fund management of the site.

As part of reviewing the BAM assessment and proposed management plan, a site visit will be completed. This may take one day or up to several days for large sites. The site visit date will be arranged with you and your accredited assessor to determine a suitable time.

You and your accredited assessor will be advised if any changes are required to your BSA, TFD or management plan or if any additional information is needed. We will work with you and your assessor to resolve any issues that arise in the assessment of the BSA application.

## 5.7 Signing and registering an agreement

### 5.7.1 Signing a biodiversity stewardship agreement

Once the final BSA has been prepared, the landholder will need to sign:

- the finalised BSA
- a '13NP' conservation agreement form to register the agreement on the land title with NSW Land Registry Services (LRS) and an abstract of the agreement submitted to NSW LRS as part of the registration process.

You should ensure all property and ownership details are correct before signing the BSA and NSW LRS documents.

Once you sign and return your BSA and NSW LRS documents, the Minister (or delegate) will also sign the agreement. At this point, the BSA takes legal effect and applies to current and future owners of the land.

### 5.7.2 Registering the agreement on title and the public register

NSW LRS will register the BSA on all land titles covered by the BSA. The planning certificate will then note a BSA applies to the land. If you want to identify the exact boundaries of the BSA on the deposited plan for your property, you will need to pay the additional NSW LRS fee. See [Land Title Fees](#) on the NSW LRS website for more information.

The BSA and information about your site will also be included on the public register of private land conservation agreements as required by the BC Act and Regulation.

## 5.8 Issuing of biodiversity credits

Your biodiversity credits will be issued following registration of the BSA on the land title. The credits will appear on the Biodiversity Offset Scheme credit supply register.

This register shows:

- the number and type of biodiversity credits created by your BSA
- the status of your credits as ‘issued’
- the name and contact details of your nominated contact person.

You will also receive a credit ownership report that contains the details that enable you to sell (transfer) or retire your biodiversity credits.

## 6. After your biodiversity stewardship agreement is approved

### 6.1 Selling your credits

You can sell your credits to:

- buyers you have found through your own contacts – for example, local developers
- buyers seeking to offset impacts from major projects or infrastructure
- the Biodiversity Credits Supply Fund – operated by the department
- the NSW Biodiversity Conservation Trust (BCT)
- anyone else you would like to sell your credits to, which may include buyers with philanthropic or corporate social responsibility goals.

When selling your credits, you will need to set a price that you are willing to accept for your credits. See section 3.3 for more information on pricing credits.

With your buyer, you will need to:

- submit a credit transfer form to [BOSCredits@environment.nsw.gov.au](mailto:BOSCredits@environment.nsw.gov.au) including satisfying any requirement such as legal authority and paying the application fee
- pay the total fund deposit (TFD) or a relevant portion thereof or, alternatively, arrange for the credit buyer to do this as part of the transaction.

### 6.2 Advertising your credits

You can also advertise your available credits to potential buyers via:

- the biodiversity credits catalogue, an interactive online catalogue showcasing biodiversity stewardship agreement (BSA) sites and the credits generated as a result of biodiversity gain
- the credits supply register, an online register outlining information about issued, pending and potentially available credits.

Both the catalogue and register provide potential buyers with an understanding of what credits may be available for purchase, as well as methods for contacting sellers.

### 6.3 Retiring credits

If you need to retire biodiversity credits to meet conditions of development consent, you can apply to retire credits created from your BSA or retire biodiversity credits that you have purchased from the market. As part of the credit retirement, you will need to submit a credit retirement form and pay the application fee. If you are retiring credits from your own BSA you will also need to pay the TFD (see section 6.4).

## 6.4 Paying the total fund deposit

As part of selling your credits or retiring credits, the TFD needs to be paid into the Biodiversity Payments Stewardship Fund (BSPF). Table 2 sets out how these payments are to be made. Funds set aside in the BSPF are paid back to the landholder by the amount set out in the annual payments schedule of the BSA.

Payment of the TFD is the responsibility of the BSA landholder, but you can ask the credit buyer to pay the TFD as part of the payment when selling your credits. If you sell only some of your credits, then the proceeds from further credit transactions must continue to be paid into your TFD until it is met in full. In most cases, you will need to pay a proportion of the TFD relevant to the proportion of credits being sold. If the amount from the transaction is lower than the relevant proportion of the TFD, please contact [BOSCredits@environment.nsw.gov.au](mailto:BOSCredits@environment.nsw.gov.au) to discuss whether the lower amount can be approved.

If the TFD is met in full but you still own some credits, you can continue to sell those credits and keep any further proceeds from the sale of credits. Don't forget to factor in tax (see section 6.6).

**Table 2** Payment methods and account information for paying the total fund deposit

Payment Method	Details
<b>Electronic funds transfer (EFT)</b>	Bank: Westpac
EFT is the preferred payment method	Account name: Biodiversity Stewardship Payments Fund BSB: 032 001 Account number: 181 364
<b>Cheque</b>	Biobanking Trust Fund
If unable to pay via EFT	Postal Address: Locked Bag 5022, Parramatta NSW 2124

## 6.5 Implementing the management plan

As the landholder, you are responsible for implementing the management plan once the BSA is signed. The BSA and management plan will state if any actions can be delayed until the TFD is met and annual payments start.

You can undertake management actions yourself or engage a contractor to undertake this work on your behalf. Some management actions may require a specialist.

If you have any questions about your management plan and how to implement the management actions, contact the BCT for advice.

### 6.5.1 Annual reports and monitoring

Each year you must submit an annual report to the BCT in accordance with the BCT annual report template. You should submit the completed annual report to the BCT via email: [info@bct.nsw.gov.au](mailto:info@bct.nsw.gov.au)

Using a diary record of your management actions and observations of events on your site may be useful and make it easier to produce the annual report. You are not required to provide receipts for funds spent on implementing the management actions.

Your annual report must be submitted to the BCT within 15 days of:

- the annual date (anniversary) of your BSA being signed by the Minister (or delegate)
- when the TFD is met, the annual date of your first annual management payment.

The BCT may arrange a site visit to review the annual report and to answer any questions you have about the management plan.

If you do not complete the management actions or submit your annual report, you will not receive your next annual payment. The BCT may also undertake other actions to address compliance.

Your BSA also sets out other reporting obligations, including in relation to events – for example, fires or damage to your property.

## 6.5.2 Annual management payments

When the TFD is met, annual management payments are made to the landholder according to the payment schedule in the BSA. The amounts shown in the payment schedule are at today's dollar value and will be adjusted for inflation using the annual rate of the CPI.

Payments are made to the landholder in advance of the year (when the BCT has received your annual report).

Annual payments are made into your nominated bank account. If this changes, please advise the BCT in writing.

## 6.6 Tax

You should seek specific advice from a registered tax professional on your individual circumstances. The following advice is intended to be general and to provide an indication of what may be required. The Australian Tax Office (ATO) may also publish information that may help you.

### 6.6.1 Income tax

Payments made by the BCT from the Biodiversity Stewardship Payments Fund (BSPF) to BSA landholders are a contractual payment for the performance of services and should be ordinary income and assessable for income tax purposes. Landholders may be able to claim deductions. BSAs are part of the approved conservation covenant program for the purposes of the *Income Tax Assessment Act 1997* (Cth), which may allow a landholder to qualify for a tax concession.

### 6.6.2 Land tax

Land that is the subject of a BSA is exempt from land tax under section 10(1)(p) of the *Land Tax Management Act 1956* (NSW). Contact Revenue NSW for further information.

### 6.6.3 Goods and services tax (GST)

To enter into a BSA and receive payments from the BSPF, a landholder must provide an Australian business number (ABN) and be registered for goods and services tax (GST). The person or entity that holds the ABN must be the legal landholder.

Landholders must register for GST if their turnover exceeds \$75,000 a year or, for non-profit organisations, exceeds \$150,000 a year. It is expected that most landholders entering BSAs are carrying on enterprises and are registered for GST.

Landholders should consider voluntarily registering for GST, even if their turnover under the BSA is to be worth less than \$75,000. The GST registration must match the ABN of the business enterprise carrying on the business.

Entering into a BSA is a taxable supply in return for the biodiversity credits. A taxable supply of biodiversity credits is made in return for the landholder entering into the agreement. These are non-monetary transactions.

The BCT and the landholder (if both are registered for GST):

- are required to pay GST in respect of their supply, calculated on the estimated value of the credits
- can claim an input tax credit (ITC) in respect of the tax invoice received from the other party.

If a landholder is registered for GST when the BSA is registered, a tax invoice will be issued and recipient-created tax invoice (RCTI) created on behalf of the landholder.

This is usually based on an estimated value of the biodiversity credits created by the BSA. These invoices do not need to be paid as the GST payable and the input tax credit are the same, so the net GST is zero. However, the landholder needs to account for both the GST payment and the input tax credit in their business activity statements (BAS).

If a landholder is not registered for GST, an invoice for GST will be issued to the landholder and this will need to be paid to the BCT. The amount will be equal to 1/11th of the GST inclusive estimated market value of the credits. It is for this reason that the BCT recommends that landholders seeking to enter a BSA consider registering for GST.

The sale of credits is a taxable supply of goods for the purposes of GST. This means that the owner of the credits is registered for GST or is required to register for GST. The biodiversity credit price should include GST that the credit seller then needs to pay to the ATO. If the credit seller is not registered for GST, the seller should not be paid GST by the buyer of the biodiversity credits.

In relation to annual management payments, stewardship services provided by the landholder in return for the annual payments should be a taxable supply if the landholder is registered or required to be registered for GST.

If the landholder is registered for GST, the BCT will issue an RCTI and include an amount for GST when making the annual payment. It is then the landholder's responsibility to remit the GST component to the ATO.

If the landholder is not registered for GST, the annual payments will not include GST. This means the landholder may be out-of-pocket if GST is paid on any goods or services used for carrying out the management actions, as these GST payments cannot be claimed by the landholder as input tax credits.

#### 6.6.4 Capital gains tax

A capital gains tax (CGT) event (type D4) occurs on entry into a BSA. The landholder may make a capital gain or loss depending on the capital proceeds and cost base (costs of acquisition, holding and disposal) of the land. The capital proceeds on entering a BSA are equal to the value of the biodiversity credits. Documenting this market value provides certainty to the landholder on the capital gains tax from entering into the BSA.

A CGT event (type A1) occurs when biodiversity credits are sold. The landholder may make a capital gain or loss depending on the capital proceeds and cost base (costs of acquisition, holding and disposal) of the credits. We recommend that landholders seek their own taxation advice in calculating this.

The ATO provides private rulings at no cost on how tax law applies in a specific scheme or circumstance. Reviewing these rules could be a guide about the way the ATO has approached various issues and questions that have raised. For more information, or to access this service, see [Private rulings | Australian Taxation Office](#).

### 6.7 Varying a biodiversity stewardship agreement

To vary a BSA, including biobanking agreements established under the *Threatened Species Conservation Act 1995* (NSW), you must submit a variation application form. BSAs can be varied for a number of reasons, including to add biodiversity credits or increase the size of the BSA.

Depending on the nature of the variation, you may need to provide additional documentation with the application. The BCT also has a role in varying a BSA, typically to update the management plan, or account for changes in land ownership, subdivision of the land or other changes that affect the land title information of the BSA site.

Further information on how to vary a BSA can be found in Appendix C.

### 6.8 Terminating an agreement

You can voluntarily terminate your BSA within 3 months following its approval, or after 5 years, if you have not sold nor retired any of the biodiversity credits. As part of the voluntary termination, you must agree to cancel all the credits.

To terminate your BSA, you must submit a BSA termination application to the BCT. There is a fee for a termination application. All landholders and property interest holders must sign the application. When the Minister has approved the termination, the BSA will be removed from the land title via NSW LRS.

## 6.9 Selling land subject to an agreement

Your BSA includes requirements relating to the sale of the land.

You must notify the BCT in writing when:

- you decide to sell a property with a biodiversity stewardship site
- you have put your biodiversity stewardship site up for sale
- if there is a change of ownership or occupancy (noting this is to occur within 7 days following the land sale).

You should provide potential buyers of your property with all documentation relevant to the BSA, including the BSA and management plan, TFD calculation and the Biodiversity Stewardship Site Assessment Report (BSSAR).

Before completing the sale of the land, you must provide the new landholder with:

- a copy of the signed BSA
- all annual reporting records and documentation.

If your land is sold, annual payments are made to the new landholder.

If the ownership changes in the middle of a reporting period, you will need to submit a report for the period when you were the stewardship site's legal landholder. You will need to negotiate what amount of the management payment you have already received you will provide to the new landholder.

The owner of the land is responsible for complying with the BSA even if management payments were made to the previous landholder.

If you are selling your BSA site and have unsold biodiversity credits you can retain ownership of those credits, unless you decide to transfer these to the new landholder, fully or in part. If the TFD is not yet met, you need to pay the TFD as part of transferring the credits.

Where you no longer own the BSA site but you are selling credits, you must continue to pay the TFD until it is fully paid. Once this is met, you keep any funds from the sale of the remaining credits.

# Appendix A: Completing the application form

This section provides information to help you complete the biodiversity stewardship agreement (BSA) application form and attach any required documents.

## Landowner and contact details

### Australian business number or Australian company number

Depending on the category of land ownership, your application must provide either an Australian business number (ABN) or an Australian company number (ACN) according to the table below.

**Table 3** Land ownership category and providing an ABN or ACN

Land ownership category	Do I provide an ABN or ACN?
Land owned privately	ABN in the name of the landholder (or landholders)
Land owned in a partnership	ABN of the partnership We do not require the ABN of individual partners
Land held in trust	ABN in the name of the trust (when the ABN is attached to the trustee of the Trust, in their capacity as a trustee)
Land owned by a company or corporate trustee	ACN We do not require the ABN of any directors or subsidiaries

## Title search, title diagrams, dealings and notations

BSA applicants must submit the following for the area covering the BSA:

- a title search for all lot and deposited plans (DPs) showing the same entities or individuals as listed as owner on each title
- title diagrams for all lot and DPs
- dealings (listed in the second schedule or notations of the title search).

Dealings and notations on title can be obtained through a title search using the relevant dealing number. Examples of dealings include registered BSAs, easements and covenants.

If required, a description of any relevant dealing or notation and associated resolution to establish the BSA must be included with the BSA application.

## Property interest holders on the land

### Easements

All easements are to be clearly identified on the BSA map and in the management plan. Any easements on your property will be listed in the second schedule of the title search and are generally shown on title maps.

### Mining lease

Your application must include written consent from the lease holder that they support establishment of the BSA if there is a mining lease or mineral claim present over the land under the *Mining Act 1992* (NSW) or a production lease under the *Petroleum (Onshore) Act 1991* (NSW).

### Mortgage or charge

Your application must include written consent from your financial institution if you have a mortgage or charge for the land proposed as a BSA. We recommend you use the [mortgagee consent letter template](#) when you request mortgagee or chargee consent from your financial institution.

### Caveats

For [caveats](#) other than a mortgage, please provide consent from the caveator that:

- is addressed to the Registrar General, NSW Land Registry Services
- includes the name of the caveator, dealing number and dealing type
- outlines that they give consent to Department of Climate Change, Energy, the Environment and Water to register the BSA on the title (or titles)
- is clear that they do (or do not) provide consent
- is signed by the caveator or any person authorised to sign a withdrawal of caveat, and has the signature of the caveator witnessed if signed by a private party or where the consent is not on a letterhead.

To make this easier, you can use the [caveator consent template](#). You can also seek specialist conveyancing or property law advice in relation to caveats.

### Underground pipes and cables

If requested at a presubmission meeting, applicants are required to provide the cover letter and results of their [Before You Dig Australia \(BYDA\)](#) search with their application.

A BYDA search is a free service when 'manual excavation' is indicated as the purpose of the search. Its purpose is to locate any underground services within the BSA site.

Underground services may correlate with an easement shown on the title map, but not always. For more information see the [Before You Dig Australia \(BYDA\) website](#).

Where the results show the presence of high-pressure gas or water services located outside the easement, applicants should contact us to determine if a certified locator is required to be engaged.

## Location of infrastructure

Information about the location of local water, sewer or energy infrastructure may be required to be provided with your BSA application – for example, this may be requested at a presubmission meeting with us. A BYDA search can also identify the location of water, sewer or energy assets. You may also need to confirm if there are any council utility services on the site that are not shown on the title search and/or Deposited Plan

## Existing conservation and offset obligations

If there is an existing conservation obligation, the landholder must include a copy of the legal instrument containing the existing conservation obligations with their application, including any offsets (see Table 4 for examples). If any part of the site has included an offset, information about that offset should be provided, including the type of offset, location and the impact or project for which it was used as an offset.

## Local council consultation

You may need to consult with your local council to confirm that your land has not previously been used as an offset and is eligible for a BSA. This requirement will generally apply if you are establishing a BSA within a local government area within the Greater Sydney, Hunter, Central Coast, Shoalhaven and North Coast regions. The purpose of consultation with your local council is to understand if your land has been previously used as an offset under Parts 4 or 5 of the *Environmental Planning and Assessment Act 1979* (NSW). We will confirm if this requirement applies to your application at a presubmission meeting.

## Local Land Service

Your application needs to provide written evidence from the NSW Local Land Services for the types of conservation obligations or offset arrangements they administer (in Table 4). This evidence may be in the form of search results from the public registers or an email confirming that all relevant databases have been checked.

**Table 4** Types of conservation obligations and where to obtain information

Type of conservation obligation or offset obligation	Where to obtain information
Biodiversity offset under Part 4 or 5 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW) (EP&A Act)	Local council
Past or present development consents, or proposed land uses that are incompatible with a BSA	Local council
Incentive based property vegetation plans, or Private Native Forestry property vegetation plans	NSW Local Land Services
Natural resource management incentive funding agreements from a former Catchment Management Authority or Local Land Services	NSW Local Land Services

Type of conservation obligation or offset obligation	Where to obtain information
Set asides under the <i>Land Management (Native Vegetation) Code 2018</i> (NSW), including certificates or proposals	NSW Local Land Services <a href="#">public registers</a> or email <a href="mailto:slm.info@lls.nsw.gov.au">slm.info@lls.nsw.gov.au</a> (request all relevant databases be checked for current set asides)
Offsets for clearing property vegetation plans established under the former <i>Native Vegetation Act 2003</i> (NSW)	NSW Local Land Services <a href="#">public registers</a> , and email <a href="mailto:slm.info@lls.nsw.gov.au">slm.info@lls.nsw.gov.au</a> (request all relevant databases be checked for historical offset property vegetation plans)
s77A <i>Crown Lands Act 1989</i> (NSW) restriction	NSW Crown Lands
Conservation agreements, Nature Conservation Trust agreements and wildlife refuges	NSW Biodiversity Conservation Trust (BCT)
Australian Government Environmental Stewardship Program (ESP) agreements	Australian Government Department of Climate Change, Energy, the Environment and Water
Dealings or caveats which impose or restrict land use for the purpose of environmental management or protection, natural resource management etc.	Second schedule of your land title information

## NSW Crown land and Crown roads

Your application must provide written consent from NSW Crown Lands, indicating its in-principal consent to establish a BSA if Crown land encompasses any part of the proposed site. Crown land includes road reserves, Western lands leases and Crown land leases.

For help with this: [stewardship@environment.nsw.gov.au](mailto:stewardship@environment.nsw.gov.au)

For Western lands leases: [western.region@crownland.nsw.gov.au](mailto:western.region@crownland.nsw.gov.au)

For other Crown land leases: [cl.enquiries@crownland.nsw.gov.au](mailto:cl.enquiries@crownland.nsw.gov.au)

## Aboriginal cultural heritage

A BSA does not authorise the landholder to harm or damage an Aboriginal object or an Aboriginal place. Aboriginal objects, heritage and places are regulated under the *National Parks and Wildlife Act 1974* (NSW) and the *National Parks and Wildlife Regulation 2019* (NSW).

There is a [code of practice](#) to assist individuals and organisations to exercise due diligence when carrying out activities that may harm Aboriginal objects. Landholders are advised to follow this Code of Practice if management of land under a BSA may harm Aboriginal objects or places.

In some situations, preparation of the BSA management plan may need to consider how to avoid any adverse impacts on cultural heritage. If any impacts are potentially significant, this area could be excluded from the BSA, the management actions could be revised or advice from a cultural heritage consultant could be obtained.

You can find out about Aboriginal objects and places through the Aboriginal Heritage Information Management System (AHIMS). However, this is not a complete list of all Aboriginal cultural values, objects and places, and location information may be withheld (for cultural reasons) or may be inaccurate. If you are searching in AHIMS, include all property to be covered by the BSA (lot and DP or boundary shapefile) including up to 50 metres from the site boundary. If the results of a basic search list objects or places within the site, conduct an AHIMS extensive search and provide results in Excel format.

In developing the management plan for the BSA, you and your accredited assessor should consider how to avoid impacting Aboriginal places, objects or cultural values of the site. Some examples include:

- excluding burning or hazard reduction from areas around scar trees or other Aboriginal objects that could be damaged by fire
- reducing mechanical digging where there may be buried objects. Use of hand tools for replanting and weeding is unlikely to cause damage.

You can discuss any issues with us at a presubmission meeting.

# Appendix B: Guidance for accredited assessors

## Managing conflicts of interest

The accredited assessor code of conduct (see Part 3 of 'Application form for accreditation to apply the Biodiversity Assessment Method') requires that accredited assessors 'must not act in circumstances where there is actual, perceived or potential conflict of interest'. If a conflict of interest is not managed effectively, there could be a significant delay to the biodiversity stewardship agreement (BSA) application assessment process and additional costs for the landholder. In some circumstances, it may result in the assessor's accreditation being varied, suspended or cancelled.

Any conflict of interest must be declared in the Biodiversity Stewardship Site Assessment Report (BSSAR), along with details evidencing how it has and will continue to be managed throughout the Biodiversity Assessment Method (BAM) assessment and application process. If there is insufficient evidence that it is being managed effectively, we may take further action, including requesting information in the BSSAR be resubmitted or verified by an independent certified person.

There are a range of situations in which a conflict of interest may need to be declared. Some examples of conflicts of interest for an accredited assessor that should be declared include:

- the proposed BSA site is under the ownership of the accredited assessor, a relative, their employer or a business of they are part
- the accredited assessor for the BSA site, or the business for which the accredited assessor works, is involved in a development that holds an offset obligation to retire biodiversity credits that are being created through the BSA, or will require those credits in the future
- the accredited assessor for the BSA site, or the business for which the accredited assessor works, is also acting as a broker of biodiversity credits and is involved in selling credits to offset a development that holds an offset obligation to retire biodiversity credits that are being created through the BSA.

Examples of strategies to manage conflicts of interest include:

- arranging for an independent accredited assessor to undertake and certify the BAM assessment and prepare the BSSAR and the management plan
- excluding the conflicted person from undertaking assessment work for the BSA application, including undertaking biodiversity surveys
- using public processes that are operated at arm's length to sell credits
- seeking advice from a probity expert.

You can ask for advice on a conflict of interest relating to a BSA application via [stewardship@environment.nsw.gov.au](mailto:stewardship@environment.nsw.gov.au)

If the enquiry is about accreditation or the accredited assessor code of conduct, you can seek advice from the Biodiversity Offset Scheme Help desk at [BOS.helpdesk@environment.nsw.gov.au](mailto:BOS.helpdesk@environment.nsw.gov.au)

## Defining the boundary of the site

Defining the boundary of the proposed BSA is an important early step. It will help to inform the preparation of the BSSAR and management plan, and to define the area (or areas) on which credits will be created. You should discuss these issues with your accredited assessor and us.

## Easements and utility infrastructure

We recommend that any issues relating to the BSA boundary are resolved early to avoid amendments to the BSA boundary part-way through the assessment or BSA application review, which could add time and cost to establishing your BSA.

To ensure that no amendments to the BSA boundary are required, the assessor and landholder must ensure that the proposed BSA does not include:

- exclusions on title
- Crown roads
- above-ground utilities, including maintenance buffer – for example, telecommunication exchange buildings
- underground assets related to gas infrastructure
- local council or water authority above- or underground water, sewerage and drainage infrastructure.

Items which may be retained within the BSA boundary and excluded from all ecosystem credit generation (while generation of some species credit types may be permitted in exceptional circumstances) include:

- all easements on title, including rights of carriageway and access
- overhead electricity transmission line maintenance corridors and easements not on title (that can be detected on ground or using high-resolution aerial photography)
- other underground utilities and infrastructure not listed above, such as water supply pipelines and sewerage infrastructure
- dams, tracks and trails, including NSW RFS fire trails.

## Ownership of land

It is important to ensure the BSA applicant owns the land on which the BSA is proposed. The NSW digital cadastre does not define the legal title boundary, and its accuracy can be uncertain in many parts of New South Wales. Consider if any of the following situations may impact certainty about ownership of the property:

- uncertainty about the accuracy of the digital cadastre where the proposed BSA area is being defined by the property boundary
- discrepancy between the title search and the digital cadastre
- discrepancy between the title diagram and the digital cadastre
- limited title (the land has not been fully defined by a survey and the boundaries have not been examined by NSW Land Registry Services)
- qualified titles (title has not yet been converted to Torrens title)
- the title boundary is also a riparian line
- ‘give and take’ fences that define the property boundary with neighbouring land for practical but not legal purposes.

If this is relevant to the BSA, you may need to provide a survey from a registered surveyor to confirm the property boundary. However, if a BSA boundary adjoins another property the boundary defined by part compilation or part ground survey (or both) will be acceptable. We do not require a full plan of survey to be undertaken when preparing a BSA boundary; however, a plan of survey may be useful.

## Using the BSSAR template

In preparing a Biodiversity Stewardship Site Assessment Report (BSSAR), the accredited assessor should use the BSSAR template. The template contains guidance notes, shown in brackets and highlighted in grey.

Assessors should delete only sections of the template that are described as ‘optional’ or ‘where relevant’ and the section is not relevant. For example, where no active restoration activities are proposed, this section of the BSSAR template would be deleted.

In accordance with the BAM, assessors must provide sound justification (evidence) to support the BSSAR – including decisions about methods, techniques and survey results – and to support site survey data.

Examples of where additional information may be required include justification for:

- use of peer-reviewed published literature – for example, in supporting the use of a local benchmark or the habitat constraints that demonstrate the likely distribution of a threatened flora species
- field reconnaissance methods and results – for example, including a clear explanation of the survey plan that sets out where vegetation plots will be located
- attribute scores for the vegetation integrity assessment – for example, to support supplementary planting of species within a specific growth form group, such as grasses, herbs and forbs
- demonstrating the presence of species on the BSA site, such as fauna species recorded on remote cameras set up as part of targeted species survey – for example, photographs taken on, and georeferenced to, the BSA site

- maps to show the distribution of a particular threatened species associated with a habitat constraint, or to support selection of a particular plant community type (PCT), such as topography and soils
- quantitative analysis of existing and site survey data and matching this to data to BAM online resources – for example, BioNet Atlas, Threatened Biodiversity Profiles data collection (TBDC), BioNet Systematic Flora Survey data, BioNet Vegetation Classification, and Sharing and Enabling Environmental Data portal (SEED).

## Using the management plan template

The template used for preparing the management plan should be used (ensure you have the most current version by downloading the template when you are preparing each new management plan). There is also a library of management actions that can be used to help put together a management plan.

In preparing the management plan, specific management actions must be provided in the operations schedule at each section of the template. Each of the actions set out in the operations schedule can be cross-referenced to the TFD Calculator. This will help the landholder know the amount of funds they can expect in their annual payment and the specific amount that has been budgeted for each action.

Management actions need to be written using plain English and applying the SMARTA principles.

SMARTA stands for:

- **S**pecific
- **M**easurable
- **A**chievable
- **R**elevant
- **T**ime specific
- **A**greed (with the landholder)

The SMARTA principles mean that each action should include a detailed description of the management action and the methods to be used to implement the action in the operations schedule. Information that supports or justifies the reasons for the action or methods should be included in the BSSAR. This will ensure the management plan contains only the information that the landholder needs to implement the actions.

It is important that landholders are closely involved in the development of the management plan to improve their understanding of what is involved in implementing the plan.

The management plan should be prepared in accordance with the Biodiversity Assessment Method Operational Manual – Stage 3 (Department of Planning, Industry and Environment 2020).

### Including livestock grazing in the management plan

When implemented appropriately, strategic grazing of livestock can be used to achieve biodiversity conservation goals in some circumstances. Grazing can be used as a management action only within grassy ecosystems.

Grazing to achieve gain in biodiversity values is different from grazing for production. Where grazing is proposed, the BSSAR should address how the grazing component of the management plan will contribute to biodiversity gain on the site and a quantitative gain in vegetation integrity.

The grazing plan will need to set out:

- how it will help to enhance the diversity and cover of native flora species, control weeds and promote natural regeneration of tree cover
- infrastructure to confine stock to graze only within appropriate grassy ecosystems
- areas excluded from grazing, such as riparian and other environmentally sensitive areas
- healthy condition thresholds that set out when grazing can and cannot occur
- defined grazing times to allow native species to flower, set seed and germinate to encourage future recruitment of native plants.

### Including ecological burns in the management plan

Before a planned ecological burn can be undertaken, an operational burn plan must be prepared with funds provided for its preparation in the total fund deposit in the year prior to undertaking the burn. The operational burn plan needs to cover aspects such as safety, communication and access points as well as specific details relating to the ignition pattern for the desired burn pathway.

The management plan must also identify and map the fire exclusion zones and include any strategies to ensure that fire is excluded from these areas.

The fire exclusion zones identify where planned burning should not occur because of the:

- terrain or the lack of control or containment features within the BSA site
- proximity of all or parts of the BSA site to property and infrastructure, including on neighbouring properties
- presence of threatened species, plant communities, riparian areas or other biodiversity values that are sensitive to fire.

## Monitoring and adaptive management

The landholder must arrange for a formal review of the management plan every 5 years from the date the BSA commences. The review of the management plan provides an opportunity to review the effectiveness of the plan and recommend any amendments that are likely to improve the management of the site to achieve the desired biodiversity outcomes.

Preparation of the management plan requires the establishment of ecological response monitoring points. These are permanent monitoring points that must be established in accordance with section 3 of the Ecological Monitoring Module Operations Manual (NSW Biodiversity Conservation Trust 2021). The guide is used to inform the methods and metric used for establishing the baseline condition and progress towards the desired target. The method and metric used at each monitoring point must be appropriate to the particular value, such as monitoring progressive gain in vegetation integrity or the presence or population growth of a flora species.

Along with the landholder's diary records, understanding the progress towards achieving the expected outcomes and gain in biodiversity values is an important factor in supporting the 5-year review and adaptive management opportunities.

# Appendix C: Varying a BSA

This section provides guidance on how to vary an existing BSA, including BioBanking agreements.

## Preparing an application to vary a BSA

Depending on the scope of the variation, the responsibility for assessing and approving a variation is shared between the department and the BCT (Table 5). Prior to finalising an application to vary a BSA, it is recommended that you book a presubmission meeting or consult with the BCT.

**Table 5** Responsibility for assessing and processing BA/BSA variations

Typical types of variations	Responsibility
<ul style="list-style-type: none"><li>• Include an additional area of land to create new biodiversity credits</li><li>• Include an additional credit type/s (usually species credit)</li><li>• Consider a proposal from a public authority or an approved mining development to impact on a BSA</li></ul>	<ul style="list-style-type: none"><li>• Assessed and prepared by the department</li></ul>
<ul style="list-style-type: none"><li>• Update to the management plan following 5-year review</li><li>• Varying a BSA following Minister consent to a proposal from a public authority</li><li>• Amending a total fund deposit (TFD) amount</li><li>• Subdivide or add successor in title</li></ul>	<ul style="list-style-type: none"><li>• Assessed and prepared by the BCT</li></ul>

## Variations that add new or additional biodiversity credits

A common reason for varying a BSA is to generate additional biodiversity credits, either through including an additional area of land or by creating new types of biodiversity credits, usually species credits. To do this, you need to engage an accredited assessor to undertake fieldwork in accordance with the Biodiversity Assessment Method (BAM) and prepare a Biodiversity Stewardship Site Assessment Report (BSSAR).

To prepare the application and BSSAR, the accredited assessor must open a new Stewardship Parent Case in BOAMS. The BSSAR should be based on the standard template and the content need only cover the parts of the BAM that apply to the types of credits that form part of the variation. This includes providing information relevant to how threatened species surveys were conducted and maps showing where surveys were conducted and the species records. All new management actions must be incorporated into the management plan template and costed into the TFD Calculator

following the guidance set out in section 5.4. The TFD for the variation will be included in the varied BSA and additional to the TFD established for the original agreement.

Biodiversity data collected during fieldwork must be contained in a new assessment case in the BAM Calculator. This case must have a status of finalised and include all the biodiversity assessment data required to support creation of the new or additional credit types. For new credit types and where additional areas are being added to the BSA, existing biodiversity data that is less than 5 years old can be used in the BSSAR. However, the original BAM Calculator assessment case used to establish the BSA cannot be reopened to support a variation to add new species credits or additional areas of land.

## High-risk land and existing conservation obligation

Where new types of species credits are proposed to be added to a BSA, the assessor must ensure that the following settings are in place before finalising the BAM Calculator assessment case:

- the 'High Risk Lands' box is unticked in BAM-C
- the 'CL or Conservation Obligation' box is ticked.

These settings may be applied to additional areas of land that are proposed to be added to the BSA.

## Additionality

New types of biodiversity credits on an existing BSA (including biobanking agreements) can only be generated for management actions additional to those already required where the TFD:

- has not been met and you submit your variation application 36 months (3 years) after the agreement is executed
- has been met and you submit your variation application 12 months (1 year) after the first annual management payment.

The reduction in credits resulting from existing obligations is referred to as 'additionality' and will be calculated by your accredited assessor by considering the management actions in the existing management plan, and what other actions should be included to manage and improve habitat for the species. This analysis should be set out in a table within the BSSAR. Additionality does not apply to additional areas of land that are being added to the BSA

## Submitting an application for other types of variations

The same variation application form can be used to submit an application to vary a BSA, regardless of the purpose. Variations that are minor or do not require an assessor to prepare a BSSAR or use the BAM-C can be submitted via the [stewardship@environment.nsw.gov.au](mailto:stewardship@environment.nsw.gov.au). Your application will be provided to the team responsible for assessing and preparing the variation.

## Submitting an application for additional credits

The information and supporting documents required for a variation to add new or additional credits are covered in the BSA variation application form. The guidance in Appendix A provides additional information on the supporting documents that form part of the application.

A BSA variation application should be submitted online through the [Biodiversity Offsets and Agreement Management System \(BOAMS\)](#). Your application will be checked for completeness at our virtual front counter. To arrange a virtual front counter meeting, or for assistance completing the application form, or uploading documents, please email [stewardship@environment.nsw.gov.au](mailto:stewardship@environment.nsw.gov.au)

## Application fees to vary a BSA

The fee amount to vary a biodiversity stewardship agreement will depend on the scope of the variation. Fees for variations are updated annually and more complex variations, such as adding new credit types, have a higher fee compared to variations to update the management plan following a 5-year review. Further information on application fees can be obtained from the [Biodiversity Offsets Scheme fees webpage](#).

The BSA application form provides guidance on how to make payment. If you have questions about the application fee or payment, please email [stewardship@environment.nsw.gov.au](mailto:stewardship@environment.nsw.gov.au)

## How applications to vary a BSA are assessed

Applications are assessed in a similar manner to those used for a new BSA (section 19). For variations that add land to the existing agreement, we will undertake consent and consultation with relevant agencies and/or interested parties as if it were a new application for a BSA. You will be advised if any changes are required to your BSA, TFD or management plan or any additional information is needed.

For variations that include changes in land ownership, updates to the management plan, subdivision of land or other changes that affect the lot and deposited plan numbers of the BSA site, we will forward your application to the BCT.

Once finalised, the varied agreement needs to be signed by the current owners of the BSA and the varied agreement is then registered on the land title through NSW Land Registry Services. At this point, the new types of biodiversity credits are issued to the landholder.

# Appendix D: List of abbreviations

The following table provides a list of definitions for all abbreviations found within this guide.

**Table 6** Definitions of abbreviations in the BSA application guide

Abbreviation	Definition
ABN	Australian business number
ACN	Australian company number
AHIMS	Aboriginal Heritage Information Management System
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
BAM	Biodiversity Assessment Method
BAM-C	Biodiversity Assessment Method Credit Calculator
BAS	Business activity statement
BC Act	<i>Biodiversity Conservation Act 2016 (NSW)</i>
BCF	Biodiversity Conservation Fund
BCT	NSW Biodiversity Conservation Trust
BOAMS	Biodiversity Offsets and Agreement Management System
BOPC	Biodiversity Offsets Payment Calculator
BOS	Biodiversity Offsets Scheme
BSA	Biodiversity stewardship agreement
BSPF	Biodiversity Stewardship Payments Fund
BSSAR	Biodiversity Stewardship Site Assessment Report
BYDA	Before You Dig Australia
CGT	Capital gains tax
CPI	Consumer Price Index
DP	Deposited plans
EFT	Electronic funds transfer
ESP	Environment Stewardship Program (Australian Government)
FAQ	Frequently asked question
GST	Goods and services tax
IBRA	Interim Biogeographic Regionalisation for Australia
ITC	Input tax credit

Abbreviation	Definition
LLS	Local Land Services
LRS	Land Registry Services
NSW	New South Wales
NSWR	NSW Resources
OTG	Offset trading group
PCT	Plant community type
PVP	Property vegetation plan
RCTI	Recipient-created tax invoice
SEED	Sharing and Enabling Environmental Data
TBDC	Threatened Biodiversity Profiles data collection
TEC	Threatened ecological community
TFD	Total fund deposit