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1. BCT Conservation Tenders

This guide is aimed at assisting landholders and biodiversity credit owners who are interested in participating in a Conservation Tender under the Biodiversity Conservation Trust’s (BCT) Biodiversity Offsets Program.

The Biodiversity Offsets Scheme introduced by the *Biodiversity Conservation Act 2016* (BC Act) delivers a transparent, consistent and scientifically-based approach to biodiversity offsetting in NSW. A key function of the BCT within the Scheme is to secure offsets on behalf of developers who pay into the Biodiversity Conservation Fund (BCF). The BCT’s Biodiversity Offsets Program is responsible for securing biodiversity credits to meet the offset obligations of developers.

Conservation Tenders are the primary mechanism the BCT will use to secure biodiversity credits.

This Conservation Tender is open to landholders with existing biodiversity credits or to landholders with an existing application for a Biobanking agreement that is currently being processed by OEH.

In the future, the BCT will also open Conservation Tenders for landholders interested in entering into a new Biodiversity Stewardship Agreement (BSA) to generate credits.
2. Conservation Tender in Sydney – Hunter and South East BCT Regions

This Conservation Tender is focused on purchasing biodiversity credits generated or to be generated under the former BioBanking Scheme for which the BCT holds a current offset obligation under the NSW Biodiversity Offsets Scheme.

Credits purchased from this Conservation Tender will be retired against developer offset obligations acquired by the BCT from the Sydney – Hunter and South East BCT regions.

2.1 What biodiversity credits are being sought?

The BCT will purchase ecosystem and species credits that represent like for like offsets for the following target biodiversity credits:

<table>
<thead>
<tr>
<th>Credit Type</th>
<th>Credit Name</th>
<th>Number of credits to be purchased</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ecosystem credits</td>
<td>Spotted Gum-Red Ironbark – Grey Gum shrub grass open forest of the Lower Hunter (HU806 / PCT 1592)</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>Forest Red Gum grass open forest on floodplains of the Lower Hunter (HU812 / PCT 1598)</td>
<td>63</td>
</tr>
<tr>
<td>Species credits</td>
<td>Southern Myotis Myotis Macropus</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>Squirrel Glider Petaurus norfolcensis</td>
<td>195</td>
</tr>
<tr>
<td></td>
<td>Black-eyed Susan Tetratheca juncea</td>
<td>56</td>
</tr>
<tr>
<td></td>
<td><em>Epacris purpurescens</em> var <em>purpurescens</em></td>
<td>52</td>
</tr>
</tbody>
</table>

Like-for-like credits are determined in accordance with Section 6.3 of the *Biodiversity Conservation Regulation 2017* (BC Regulation). Like-for-like credit requirements for each of the target biodiversity credits are set out in Figure 1.
<table>
<thead>
<tr>
<th>Target biodiversity credit</th>
<th>Offset trading group and potential like-for-like credits</th>
<th>From one of the following subregions</th>
<th>AND</th>
<th>Hollow-bearing tree status</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Including: HU804 - PCT1590 HU806 - PCT1592 HU807 - PCT1593 HU814 - PCT1600 HU816 - PCT1602</td>
<td></td>
<td>AND</td>
<td></td>
</tr>
<tr>
<td>Forest Red Gum grass open forest on floodplains of the Lower Hunter (HU812 / PCT 1598)</td>
<td>Hunter Lowland Redgum Forest in the Sydney Basin and New South Wales North Coast Bioregions Endangered Ecological Community</td>
<td>Ellerston Karuah Manning Kerrabee Tomalla Upper Hunter Wyong Yengo Liverpool Range Peel Hunter Barrington Mummel Escarpment Pittwater Wollemi</td>
<td>AND</td>
<td>From vegetation with or without hollow-bearing trees</td>
</tr>
<tr>
<td>Southern Myotis Myotis Macropus</td>
<td></td>
<td></td>
<td></td>
<td>Southern Myotis credits from anywhere in the state</td>
</tr>
<tr>
<td>Squirrel Glider Petaurus norfolcensis</td>
<td></td>
<td></td>
<td></td>
<td>Squirrel Glider credits from anywhere in the state</td>
</tr>
<tr>
<td>Black-eyed Susan Tetratheca juncea</td>
<td></td>
<td></td>
<td></td>
<td>Black-eyed Susan credits from anywhere in the state</td>
</tr>
<tr>
<td>Epacris purpurescens var purpurescens</td>
<td></td>
<td></td>
<td></td>
<td>Epacris purpurescens var purpurescens credits from anywhere in the state</td>
</tr>
</tbody>
</table>

Figure 1 Target biodiversity credits and like-for-like alternatives eligible for the Sydney – Hunter and South East targeted conservation tender.
Determining which IBRA subregion your credits are from

Under Section 6.3 of the BC Regulation, ecosystem credits must be generated within the same IBRA subregion, an adjoining IBRA subregion or an IBRA subregion within 100 kilometres of the impacted site in order to be considered a like-for-like offset.

For each target ecosystem credit, the BCT has identified all possible IBRA subregions from which credits may be sourced in order to be considered like-for-like.

The IBRA subregion within which a BioBank Site is located is identified in the biodiversity assessment report.

If bidders know the IBRA subregion from which their offered credits have been generated, they can indicate this on their bid form. Bidders are encouraged to confirm their credits are from one of the IBRA subregions that meet the like-for-like requirements specified in Figure 1 before making a bid. Bids that are not from a specified IBRA subregion will be deemed ineligible and therefore will not be considered further as part of this tender process.

However, bidders are not required to know the IBRA subregion in order to submit a bid. The BCT will review the biodiversity assessment report and relevant appendices in order to confirm the IBRA subregion from which credits offered in the bid have been generated. If the BCT finds that credits offered in the bid are not to be from a specified IBRA subregion, that bid will be deemed ineligible and will not be considered further as part of this tender process.

Determining hollow-bearing tree status of your credits

Under Section 6.3 of the BC Regulation, impacts to vegetation containing hollow-bearing trees must be generated from vegetation that also contains hollow-bearing trees in order to be considered a like-for-like offset.

In most cases, the hollow-bearing tree status of credits can be determined by reviewing information in the biodiversity assessment report and/or supporting appendices associated with the BioBanking Agreement that created those credits (or BioBanking Agreement application in the case of those agreements still under assessment by OEH).

If bidders know the hollow-bearing tree status of their credits, they can indicate the status on their bid form. However, bidders are not required to know the hollow-bearing tree status of their credits in order to submit a bid. The BCT will review the biodiversity assessment report and relevant appendices in order to confirm the hollow-bearing tree status of credits within each submitted bid.

If the BCT is only seeking hollow-bearing tree credits for a particular credit type, any bids for that credit that are not generated from vegetation that also contains hollow-bearing trees as determined by the BCT, will be deemed ineligible and will not be considered further as part of this tender process.

Determining Priority Investment Area status of your credits

The BCT will aim to purchase some target biodiversity credits generated from sites located wholly or partially within a Priority 1 or Priority 2 investment area (PIA) as identified in the Biodiversity Conservation Investment Strategy 2018 (BCIS). Evaluation of bids will be weighted based on the location of the BioBank site from which they have been generated.
Bidders are not required to know whether their offered credits have been generated within a Priority 1 or Priority 2 investment area. The BCT will review the biodiversity assessment report and relevant appendices in order to confirm whether offered credits are PIA credits.
Figure 2 Map of the priority investment areas
2.2 Who is eligible to enter the tender?

The Sydney – Hunter and South East Conservation Tender is open to applicants who:

- own existing target or like-for-like biodiversity credits established under the BioBanking Scheme;
- and/or
- have an existing application for a BioBanking agreement currently being processed by OEH that includes target or like-for-like biodiversity credits.

All biodiversity credit owners that meet these requirements will be able to participate in this tender, subject to the conflict of interest rules below. This includes private, corporate, non-profit, community and government entities that own biodiversity credits.

You are still eligible to bid if your credits have come from sites outside Priority 1 or Priority 2 investment areas provided all credits are like-for-like credits for one or more of the target biodiversity credits, as described in section 2.1 above.

Tender bids must be submitted by the registered owner of the credits, or where an agreement is still under assessment, by the registered applicant for the agreement.

Conflicts of interest

Credit owners will be required to declare any conflicts of interest when submitting a bid, as well as how it is intended for these conflicts to be managed. Credit owners who have associations that are considered by the BCT to represent a conflict of interest which is unable to be managed may not be eligible.

BCT staff and Board members (and their close family members) and delivery agents (contractors and directors of delivery agents) involved in the delivery and evaluation of a BCT Conservation Tender, are not eligible to bid in the tender. Any bids received from such parties will not progress further in the process.

3. Conservation Tender process

The Conservation Tender is a sealed bid (confidential), reverse auction. It provides an opportunity for credit owners to nominate a price to sell their existing or expected biodiversity credits.

Key dates

19 November 2018 – tender period opens
14 December 2018 – tender period closes
January – February 2019 – tenders are being evaluated
February – March 2019 – successful bidders are notified and contracts to purchase credits issued
March 2019 onwards – BCT purchases credits
Tender period

The tender will accept bids during a four week bidding period. All bids are due by midnight on 14 December 2018. Bids received after this date will be considered late and may not be assessed further. The consideration of a late bid will be at the sole discretion of the BCT. Late bids will only be accepted where the BCT is satisfied that the integrity and competitiveness of the process would not be compromised.

3.1 Tender process

Submitting a bid

Credit owners must submit bids in the form approved by the BCT. This form will be available on the BCT website when the tender opens on 19 November 2018.

Bids must be submitted during the bidding period to: boptenders@bct.nsw.gov.au with ‘Sydney-Hunter and South East Conservation Tender’ in the subject line.

The BCT is authorised to correct any errors in any submitted bid that the BCT considers to be minor and immaterial. This does not place an obligation on the BCT to correct these errors. The BCT may also seek clarification or additional information from one or more applicants during the bid assessment process.

Bids will need to be accompanied by:

- A copy of the biodiversity assessment report that was submitted with the BioBanking Agreement application (redacted to remove any commercially sensitive information if you wish, e.g. management costs); and
- A copy of any appendices to the biodiversity assessment report (redacted to remove any commercially sensitive information if you wish, e.g. management costs) that may be required to verify the hollow-bearing tree status of the credits offered.

Credit owners can submit one bid form per BioBanking agreement. Only credits from a single BioBanking agreement should be included on a bid form. A separate bid form should be used for any subsequent agreements held by the credit owner.

A bid can be submitted for one or more target biodiversity credits.

All bids are non-binding, meaning the credit owner may pursue other opportunities to sell their credits during the tender period and may choose not to accept an offer by the BCT to purchase their credits. However, if the credits have been sold by the applicant prior to the finalisation of the assessment process and notice by the BCT of the outcome of the tender, applicants are required to inform the BCT immediately.

Bid price

A bid must specify the number of target credits offered to the BCT and the price the credit owner is seeking for the offered credits.
Credit owners can elect to split their credits across up to three, non-overlapping bids for each target biodiversity credit. This allows a credit owner to bid at up to three different price points for each target biodiversity credit. For example, if a landholder owns 100 credits of a target credit, they could offer to sell all of their credits at a single price; e.g. 100 credits at $A/credit, or offer discrete parcels of credits at different prices, for example:

- 30 credits at $X/credit
- 50 credits at $Y/credit
- 20 credits at $Z/credit

Depending on the other bids and the reserve price, none, some or all of these bids might be successful.

Within a bid, all credits must represent the same target biodiversity credit or like-for-like alternative.

A worked example of a bid is provided in Figure 2 below.

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1 This applies per BioBanking Agreement. If a credit owner has multiple BioBanking Agreements, they can submit a separate bid form, with up to three bids, for each other BioBanking Agreement.
**Figure 2: Worked example**

A credit owner wishes to bid for the sale of 100 ecosystem credits for target ecosystem credit PCT1592 – HU806 and 100 species credits for the target species credit – Squirrel Glider, these include:

- 30 HU804 / PCT1590 credits,
- 40 HU806 / PCT1592 credits,
- 30 HU814 / PCT1600 credits
- 100 Squirrel Glider credits

All ecosystem credits are within the same offset trading group as the target ecosystem credit (PCT1592 – HU806). Review of the biodiversity assessment report indicates the BioBank site is located within the Hunter IBRA subregion. Comparison of the BioBank site location against the priority investment areas of the BCIS shows the BioBank site is located within a Priority 2 investment area.

Fifteen PCT1590 / HU804 credits were generated from a management zone containing vegetation that did not contain hollow-bearing trees. These 15 credits are not like-for-like credits of the target ecosystem credit and are therefore ineligible. All remaining 85 ecosystem credits and all 100 Squirrel Glider species credits are eligible to participate in the Sydney – Hunter and South East conservation tender.

The credit owner decides to submit the following bids to the BCT Conservation Tender in Western Sydney:

<table>
<thead>
<tr>
<th>Biodiversity credit</th>
<th>Number of credits offered (if any)</th>
<th>Price ($ per credit)</th>
<th>PIA (yes/no/unsure)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Target Credit - PCT1592 / HU806 Bids</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bid 1</td>
<td>HU804 / PCT1590 credits (20 credits)</td>
<td>20</td>
<td>$ABC</td>
</tr>
<tr>
<td>Bid 2</td>
<td>HU804 / PCT1590 credits (10 credits)</td>
<td>60</td>
<td>$GHI</td>
</tr>
<tr>
<td></td>
<td>HU806 / PCT1592 credits (40 credits)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>HU814 / PCT1600 credits (10 credits)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bid 3</td>
<td>30 HU814 / PCT1600 credits (20 credits)</td>
<td>20</td>
<td>$JKL</td>
</tr>
<tr>
<td><strong>Target credit – Squirrel Glider</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bid 1</td>
<td>Squirrel Glider (65 credits)</td>
<td>65</td>
<td>$MNO</td>
</tr>
<tr>
<td>Bid 2</td>
<td>Squirrel Glider (35 credits)</td>
<td>35</td>
<td>$PQR</td>
</tr>
<tr>
<td>Bid 3</td>
<td>None</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
The BCT reserves the right to split a bid into separate bids with the same attributes (e.g. hollow-bearing tree status) using information in the biodiversity assessment report and appendices provided by the bidder.

**Obligation not to disclose bidding strategy**

A participant must not disclose a bid, proposed bid or bid related information that could affect the integrity or outcome of a Conservation Tender.

A participant is not prevented from disclosing a bid, proposed bid or bid related information, for the purpose of obtaining finance, for the purpose of obtaining financial or legal advice or if the disclosure is required or permitted by or under any law.

**Disqualification from participating in future BCT Conservation Tender processes**

The BCT reserves the right to disqualify a participant from participating in the BCT biodiversity credit Conservation Tenders for an identified period of time. This can be done if the BCT believes on reasonable grounds that the participant has engaged in misconduct in relation to any purchasing process. In determining whether to disqualify a participant, the BCT may take into account whether the participant has breached:

- The Landholder Guide for the Biodiversity Offsets Conservation Tender
- A direction given by the BCT in relation to this Conservation Tender
- The occurrence, suspected occurrence or possible future occurrence of conduct intended to affect the integrity of the process. This includes disclosing a bidding strategy.

**Withdrawing a bid**

A participant may withdraw a bid during the tender period. This will become an ineligible bid and will not progress through the tender process. Once the tender period closes, if the credits have been sold by the applicant prior to the finalisation of the assessment process and notice by the BCT of the outcome of the Tender, applicants are required to inform the BCT immediately. This will result in the bid being withdrawn or split as agreed by the BCT and the applicant.

If successful, the credit owner reserves the right to decline the offer by the BCT to purchase credits as a result of this Conservation Tender.

## 4. Bid evaluation

### 4.1 Evaluation panel

Bids will be assessed by an evaluation panel. This panel will be independent of the BCT staff directly involved in running the Conservation Tender. It will include an independent representative.

Bids will be assessed by the evaluation panel ‘blind’, meaning that identifying information will be removed and bids assigned a generic identifier. Where a credit owner has submitted multiple bids, each bid will be given a separate identifier and assessed separately throughout the process.
The evaluation process will be overseen by a probity advisor.

The evaluation panel will prepare a recommendations report. This will be submitted to the BCT Board. The BCT Board will determine which bids are successful. The decision of the BCT Board is final.

4.2 Reserve price

The BCT will set a reserve price for each target biodiversity credit. This means that, for the purposes of this tender, all bids for credits representing like-for-like alternatives to a target biodiversity credit will be evaluated using a single reserve price.

The reserve price will represent an upper price that the BCT is willing to pay. This reserve price will not be disclosed.

The BCT is not obliged to purchase all biodiversity credits offered beneath the reserve price.

4.3 Evaluation process

Each received bid will be allocated to the target credit tender(s) for which offered bids represent like-for-like credits.

The eligibility of bids for each tender process will be verified by the BCT and all eligible bids will be considered for each tender.

<table>
<thead>
<tr>
<th>Conservation weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>The BCT will apply a ‘conservation weighting’ to prioritise the purchase of credits generated from sites located wholly or partially within a Priority 1 or Priority 2 investment area (PIA) as identified in the Biodiversity Conservation Investment Strategy 2018 (BCIS).</td>
</tr>
<tr>
<td>A 10% conservation weighting will be applied to bids offering credits generated from Priority 1 investment areas while a 5% conservation weighting will be applied to bids offering credits generated from Priority 2 investment areas.</td>
</tr>
<tr>
<td>The conservation weighting will operate as a percentage discount (5 or 10%) to the nominated bid price, for the purposes of improving the bid’s ranking.</td>
</tr>
</tbody>
</table>

All bids within each tender will be ranked on value for money, taking into account the conservation weighting. Funding will be allocated until one of the following occurs:

- The reserve price is reached, or
- The offset obligation currently held by the BCT for a target credit has been fully met, or
- The panel is of the view that subsequent bids no longer represent value for money, whichever occurs earlier.

The BCT has the discretion to disregard the ranked order of bids in each tender and instead to apply other considerations if the BCT determines that this provides better value for money and achieves the tender objectives.
4.4 Bids that exceed budget allocation

Following the ranking of the bids (based on value for money on a per credit basis) and the review of this against the allocated tender budget, the BCT will identify the bids recommended to be purchased. As part of this process, where a bid is ranked based on value for money but the acceptance of the total credits offered would exceed the allocated tender budget, the bidder will be asked if they are willing to accept sale of only a portion of the total number of credits offered in the bid at the bid price. If the request is refused, that bid will be discarded, and the next highest bid price considered.

5. Offer to purchase credits

Following the bid evaluation process, the BCT will contact successful bidders with an offer to purchase credits for the price/s nominated in the successful bid/s. The BCT will provide a credit sale agreement to the credit owner. When signed by the credit owner, this will formalise the terms of the purchase.

The BCT expects to contact successful bidders with offers to purchase credits in early 2019.

The credit owner can choose not to accept an offer by the BCT to purchase these credits as a result of the Conservation Tender.

6. Additional information

Information on this Conservation Tender is available on the BCT’s website www.bct.nsw.gov.au, including:

- Landholder guide to the Biodiversity Offsets Program Conservation Tender
- Bid form

Additional information can be sought by contacting info@bct.nsw.gov.au. Please note, that the BCT cannot provide any additional information that has the potential to influence the outcomes of the Conservation Tender process, but can provide technical advice on submitting a bid. If a bidder seeks information which would impact the Landholder Guidelines or would be deemed as relevant to all potential bidders, the BCT reserves the right to make this question and response publicly available. Should this occur, the question will be de-identified.