Biodiversity Conservation Trust

# Guide to submitting a biodiversity stewardship agreement application

## About biodiversity stewardship agreements

Biodiversity stewardship agreements (BSAs) are in-perpetuity agreements covering a specific site on your property. They are registered on your property's title with obligations for current and future landholders. Biodiversity credits, derived from the biodiversity and threatened species habitat present on your site, are generated. You can sell your biodiversity credits to any interested party. Biodiversity credits sold to developers are used to offset the impacts of approved development elsewhere.

Once sufficient credits are sold, landholders receive ongoing annual management payments in return for carrying out agreed annual management actions. A BSA may be an option for you if you:

- have native vegetation or threatened species habitat that is being cleared elsewhere
- wish to receive an alternative income stream that comes from managing your land for conservation purposes.

A biodiversity stewardship site is an agreed area of your land from which biodiversity credits are generated. This land will be bound by the terms of the BSA which clearly defines the area and management obligations of the biodiversity stewardship site.

This guide will outline the steps in the BSA application process and things you will need to consider in the four key stages of creating a BSA:

1. Explore
2. Apply
3. Establish
4. Manage.

**Key acronyms explained on page 8.**

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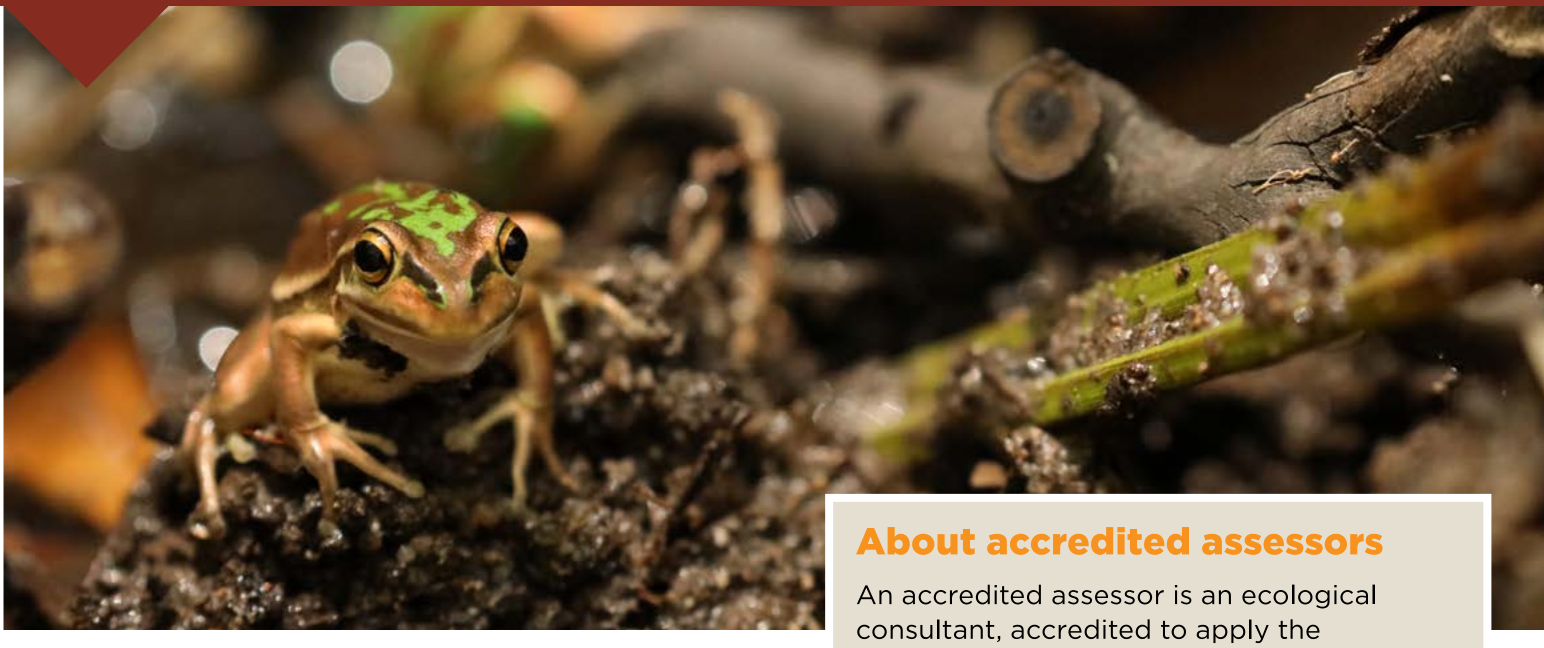
NSW GOVERNMENT

# STEP 1. EXPLORE



Before proceeding with a BSA, please read the BSA Landholder Guide (www.bct.nsw.gov.au/bsa-landholder-guide), and talk to the BCT or an accredited assessor, to make sure you can answer the following questions.

- What are the benefits of a BSA for me and my family?
- What are the risks and obligations of a BSA?
- Is my site eligible to enter into a BSA?
- What is the role of an accredited assessor and where do I find one?
  - What is an accredited assessor required to do?
  - How much will it cost to engage an accredited assessor?
- What are the estimated timeframes for preparing a BSA application?
- What type of biodiversity credit could be generated from the proposed BSA site?
- Is there a market for these types of credits?

Credits are likely to be in demand if similar types of vegetation or threatened species habitat is being cleared elsewhere in NSW in accordance with the biodiversity offsets scheme offset rules.

Contact us to find out more about our programs, whether a BSA is right for you and your land or to submit an expression of interest. When you contact us, be sure to let us know the location of the site and why you are interested in establishing a BSA. One of our team members will discuss your options and answer questions you have about applying.

The BCT will not be able to answer questions about credit types and prices. A professional third party is best placed to answer these types of questions.

## About accredited assessors

An accredited assessor is an ecological consultant, accredited to apply the biodiversity assessment method (BAM), who will help you understand your site's suitability for a BSA. They charge a fee for their services and may suggest a feasibility assessment or a business case as appropriate first steps.

The responsibility of the accredited assessor is to ensure that the BSA application is prepared in accordance with the BAM. They may undertake or oversee the following application components:

- vegetation and threatened species assessments in accordance with the BAM
- a biodiversity stewardship site assessment report (BSSAR)
- correct calculation of the credits generated at the site using the BAM calculator (BAM-C)
- production of maps that accurately indicate the site boundary, credit-generating areas and management zones
- costing management actions and completing the total fund deposit (TFD)
- submission of an eligible application including all supporting documents.

*Please note:*

- *Accredited assessors have access to the Biodiversity Offsets and Agreements Management system (BOAMS) as part of their accreditation.*
- *The BCT requires the accredited assessor to be present at the site visit and action the post-site visit feedback within appropriate timeframes.*

# STEP 2. APPLY

## Check your application is complete

BSAs are in perpetuity so the application process can be complex.

For this reason, you must take the time to determine if you are eligible to apply and to prepare and submit a complete application.

- You must submit all supporting documents when applying for a BSA.
  Our Supporting Documents Guide covers what you need to include and can be downloaded from our website (www.bct.nsw.gov.au). We need this information to confirm you are eligible to enter into an agreement, that the land is eligible to generate biodiversity credits and that the agreement can be registered on title of your land.
- You as the landholder are responsible to undertake the due diligence checks and eligibility searches. You may need to engage professional third parties to assist where necessary.
- The information required to prepare supporting documents can take time to obtain. We recommend that you start due diligence checks and eligibility searches at least three to six months prior to submitting an application.
- We recommend that professional third parties are employed to assist with any complex checks and searches.

### Examples of due diligence checks and eligibility searches

**Underground infrastructure**

Where there is underground infrastructure identified in a Dial Before You Dig search, the asset owner must be consulted. Written confirmation of the correct location and an appropriate maintenance buffer must be provided as part of the supporting documents. The asset owner may need to undertake a survey of the site to confirm this information. If underground infrastructure is present, the confirmed maintenance buffer must be excluded from the BSA site boundary or placed in a non-credit generating management zone within the BSA.

**Mining lease or licence**

If a mining lease or licence is present, the titleholder must be informed of the conditions of the BSA and provide their written consent.

**Local council consent**

The local council must be consulted for all applications. Written confirmation from the local council must be provided to confirm their knowledge of previous land use, incompatible land use and utility services amongst other checks.

### Examples of where professional third parties may be needed

**Solicitor or conveyancer services**

A solicitor or conveyancer may be required to provide information on the dealings contained within each title search (such as existing covenants and restrictions). Additionally, they may be required to confirm the location of dealings (such as easements and rights of way) that may or may not be shown on the title diagram.

**Surveyor services**

A surveyor may be required to undertake a plan of survey to define the boundaries of the lot(s) included in the application. This may be required where the landholder is aware of a discrepancy in the existing digital cadastral database. In these circumstances, the plan must be lodged for registration with the NSW Land Registry Services prior to your application being submitted.

## Complete applications

Once an application is complete it progresses to regional review which involves a desktop eligibility stage and a field-based BAM review. An application is considered complete when:

- The application fee is paid.
- Current forms and templates have been used. The application form has all boxes complete and signed by the accredited assessor and landowner(s).
- All case party type, property and lot detail information are correctly entered in BOAMs.
- All application attachments are uploaded as separate documents to the parent case.
- The application is submitted via BOAMs.
- Uploaded supporting documents include all requested documents in the specified format including written evidence of consultation and consent from entities outlined in the BCT's BSA supporting documents guide. Land title information includes all title diagrams and dealings where referenced.
- BAM documents required include:
  - The BSSAR
  - Total Fund Deposit spreadsheet
  - Completed management plan as a stand-alone word document
  - Plot data: raw field data and BAM-C import template
  - JPEG maps - contact the BCT to access a file transfer process
  - Shapefiles in a single compressed folder – contact the BCT to access a file transfer process
  - BAM-C credit summary and biodiversity credit reports.

# STEP 2. APPLY

## Eligible applications

An application is considered eligible when:

- All relevant easements and rights of carriageway identified on land title are excluded from the BSA boundary.
- Areas of the site affected by additionality identified in land title dealings or in the BAM are provided as a shapefile and included in the BSSAR.
- Infrastructure identified in Dial Before You Dig and overhead powerlines are excluded from the BSA boundary with a specified maintenance buffer. Supporting documentation must include written evidence from the asset owner confirming the location of the infrastructure on the site and the required maintenance buffer.
- The landholder or entity has not had an undischarged bankruptcy during the previous three years.
- The fit and proper test for the applicant is satisfactory.
- All mining interests have been determined (where relevant).
- If the applicant is a company - the entity is solvent.

## Eligible for BAM review

Once the application is deemed satisfactory, the region will proceed with the site visit. An application is considered satisfactory when:

- Spatial mapping is correct and vegetation zones are consistent in the BSSAR and BAM-C. The shapefile is the same extent/area as the BSA site boundary and there are no overlaps or gaps.
- There are no major constraints to prevent management actions being implemented or the purpose of these actions being achieved. Adequate justification is provided for the mitigation of major constraints.
- The BAM has been applied correctly with adequate justification and all relevant BCT guidelines are referenced
- Data entry in BAM-C is correct (e.g. plot data) and consistent with plot data sheets and raw data in the BSSAR

## BAM review

### Desktop review

- Our regional staff will undertake a comprehensive BAM desktop review of the BSSAR, TFD, Management Plan, BAM-C calculations, spatial mapping and data consistency check prior to the site visit.
- The desktop review will check that the BAM and relevant guidelines have been applied correctly and that there is adequate information and evidenced-based justification relating to credit generation and management costings.
- On completion of the eligibility review and desktop BAM review, there are two possible outcomes:
    1. The application is eligible and satisfactory and will progress to the site visit.
    2. The application is deemed unsatisfactory and does not progress to the site visit stage until the required amendments are complete and uploaded to BOAMS.

### Site visit

- The site visit will require between one half day and two days depending on the size and accessibility of the site.
- The BCT recommends that both the landholder and accredited assessor attend the site visit.
- During the site visit at least one plot from each vegetation zone will be validated. We recommend that the plot locations are marked by the accredited assessor.
- Best fit plant community types, zone stratification and proposed management actions and costings will be reviewed during the site visit.

## BCT feedback to the landholder and accredited assessor

We will give you one comprehensive round of feedback within six weeks of the site visit.

- You must document a satisfactory response to each feedback item in the feedback table.
- The response should include a comprehensive data quality assurance check to ensure all amendments have been reflected in the relevant documentation (e.g. vegetation zone size amendments are made to the shapefiles, BSSAR text, management plan actions, TFD costings where appropriate and BAM-C calculations).
- Your amended application documentation and feedback table with responses should then be uploaded to BOAMs.

## Application process time limitations

- The BCT will withdraw an application if more than six months have elapsed since the requested submission of:
    - missing or inadequate documents identified in the application completeness check
    - required additional eligibility information
    - a revised application addressing deficiencies identified in the desktop BAM review
    - application feedback responses and amended documentation post site visit.
- Should you wish to proceed with an application for the same site, a new application with a new application fee must be submitted. The new application must be prepared in accordance with any recently finalised guidelines and using the most up to date templates.
- All missing or inadequate documents, amended documentation and feedback table responses should be uploaded to BOAMs. Updated supporting documents may also require re-submission.
- You need to advise us by email as soon as all requested information has been collated and uploaded to BOAMs.

## Application tips

- The Accredited assessor code of conduct requires assessors to utilise relevant Department of Planning, Industry and Environment publications (www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/accredited-assessors/assessor-resources).
  Information relating to BCT guidelines and templates can be found at www.bct.nsw.gov.au/general-resources.
  Once a submitted application is complete, we will not retrospectively require the application to address guidelines finalised after the application submission date unless the application is withdrawn by the BCT due to the elapsed application process time limits described above.

- If you have questions about the interpretation of the BAM, DPIE threatened species survey guidelines or the threatened biodiversity profile database, visit accredited assessor resources on the DPIE website.
  If the answer to your question isn't there, contact bam.support@environment.nsw.gov.au. For clarification of BCT Guidelines, please visit the BCT website.

- We encourage pre-submission meetings for complex applications.

- Where a relevant BCT or DPIE guideline has not been followed, your application must identify and provide reasonable and sound justification for why an alternative approach was followed.

- Advice provided by the BCT staff or other DPIE teams (e.g. BAM support) on the interpretation or application of the BAM relating to a specific BSA application must be provided in written form in the BSSAR and appropriately referenced with the date and where possible the name of the officer who provided the advice.

- The BAM requires adequate and evidence-based justification of decisions in the BSSAR, management plan, TFD and expert reports. For example, the best fit plant community type (PCT) justification in the BSSAR should identify any alternative PCTs considered and a discussion about why the selected PCT was chosen over the alternatives. Justification can be based on site characteristics identified on aerial imagery, other data sets and field validation (e.g. species assemblage, structure, landscape position, soils, other relevant local vegetation reports). This justification should not be a copy/paste of the PCT description. Rather, it should detail specifics about the characteristics occurring on-site in relation to what is known about the PCT.

- Where hollow-bearing trees are present within a vegetation zone, include at least one plot for that zone that contains a hollow bearing tree.

- Areas of the site where you want to clear vegetation in the future (e.g. an allowable activity to maintain a 6m cleared buffer under the *Local Land Services Act*) should be removed from the mapped vegetation zone so that ecosystem credits are not generated. These non-credit generating areas should remain within the site boundary and mapped as a separate management zone.

- Use the most up-to-date TFD, management plan template and application form for each new application. These can be found on the BCT website (www.bct.nsw.gov.au). For applications submitted early in the financial year, the new financial year TFD template must be used when preparing the application (the updated template will be available online before the new financial year commences).

# Understanding the application review and establishment process

**BCT** | **Landholder or accredited assessor**

### Application submitted

Application submitted via the Biodiversity Offsets and Agreement Management System (BOAMS) and fee is paid.

### Completeness check

BCT checks that the application is complete and requests any outstanding documentation if necessary.

Landholder and accredited assessor upload outstanding supporting documentation if required.

### Eligibility review

BCT confirms the applicant and their site are eligible for a BSA. If required, BCT requests additional information from landholder and accredited assessor.

Landholder and accredited assessor make agreed changes and upload amended documents.

### BAM review

Desktop review.
Site visit.

### Feedback

BCT sends feedback to landholder and accredited assessor.

Landholder and accredited assessor upload satisfactory feedback response and amended documentation.

### Drafting phase

Agreement is drafted.
Comprehensive quality assurance checks are undertaken.

### Agreement

BCT sends agreement to landholder for signature.

Landholder returns signed agreement.

### Execution

Execution of agreement by BCT CEO.

### Registration

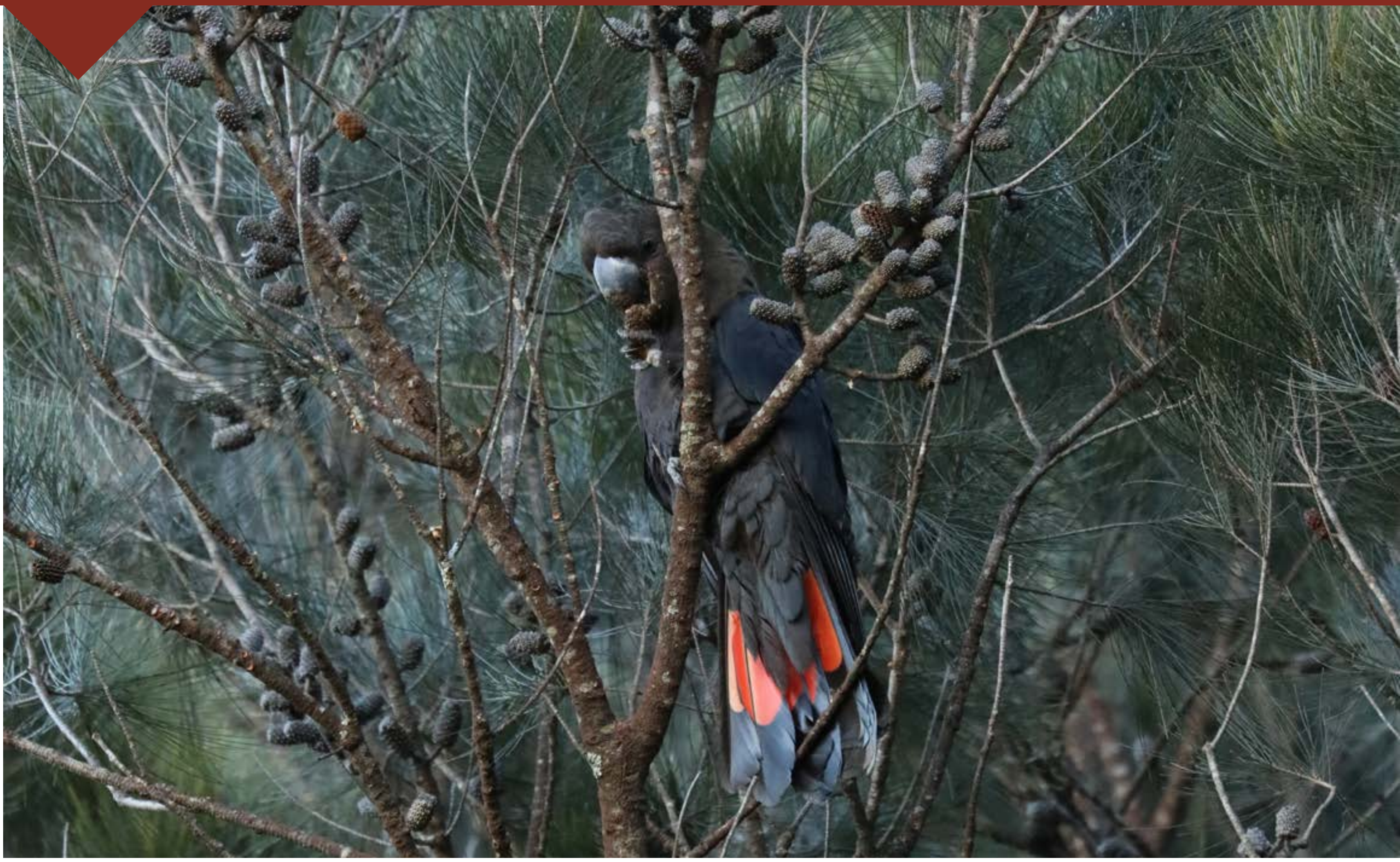
Registration at NSW Land Registry Services and credits issued.

Key
- ☐ Landholder / accredited assessor
- ○ BCT

**Key acronyms**

BAM - Biodiversity Assessment Methodology
BAM-C - Biodiversity Assessment Method Calculator
BCT - Biodiversity Conservation Trust
BOAMS - Biodiversity Offset and Agreements Management System
BSA - Biodiversity Stewardship Agreement
BSSAR - Biodiversity Stewardship Site Assessment Report
DPIE - Department of Planning, Industry and Environment
PCT - Plant Community Type
TFD - Total Fund Deposit

# STEP 3. ESTABLISH



Once your application is approved, we will draft the agreement and send it to you for signing.

We will send you the following material:

- guidance on how to sign your BSA
- two copies of your BSA
- 13NP form and abstract for registration at the NSW Land Registry Service
- nominated bank account form for future annual management payments
- estimated market value of credits form
- public register consent and privacy notice.

You then need to submit the following material back to the BCT:

- two signed copies of the agreement
- two signed copies of the abstract
- written consent from interest holders (e.g. mortgagee)
- a signed copy of the 13NP form
- estimated market value of credits form
- signed copy of public register consent form.

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The agreement is executed when signed by the BCT Chief Executive Officer, acting as the Minister's delegate.

We then submit the agreement to NSW Land Registry Services to add the details to the title of your land. Once the agreement is registered, the credits are issued to you.

*Please note: The name of the bank account needs to accurately reflect the landholders who are signing the agreement.*

*After the credits are released, we'll send you a BSA binder containing the agreement and other relevant documents including annual reporting templates.*

# STEP 4. MANAGE

There are two phases of management associated with your BSA – passive and active management.

For details on how to sell your credits, go to: [www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/offset-obligations-and-credit-trading.](www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/offset-obligations-and-credit-trading)

## Passive management

The passive management phase starts from the 'agreement date'. This is the date the BSA was signed by the BCT Chief Executive Officer.

Passive management actions have little or no cost and generally aim to maintain the existing condition of the site such as not removing fallen logs or clearing vegetation.

## Active management

The active management phase commences once your TFD has been satisfied through the sale or retirement of your biodiversity credits, and you have received your first annual management payment.

The management actions outlined in your agreement are designed to achieve the required biodiversity gain at the site. Some management actions are mandatory for every biodiversity stewardship site such as controlling weeds and managing human disturbance.

Other management actions will be unique to the specific biodiversity values and management issues at your site.

## Annual management report

Each year the landholder must submit a report to the BCT that details how the obligations under the agreement have been met.

We'll provide you with an annual report template to assist you with this. We recommend that you keep an ongoing record of your management actions and your observations of events that impact on the site's biodiversity values.

This record will help you produce the annual report. Your BSA will specifically outline your reporting obligations.

Please refer to the BSA Landholder Guide and the management plan in your agreement for further information.