



Biodiversity  
Conservation  
Trust

# NSW Biodiversity Conservation Trust Financial assistance to establish a biodiversity stewardship agreement

**Participants' guide** | August 2021

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## Glossary of terms

Below is a list of commonly used terms and acronyms in this guide. For information about these terms and BSAs generally, please visit the [BCT's landholder resources page](#).

<b>BC Act</b>	<i><a href="#">Biodiversity Conservation Act 2016</a></i>
<b>BCT</b>	Biodiversity Conservation Trust
<b>Biodiversity stewardship agreement (BSA)</b>	An agreement made under Division 2 of Part 5 of the BC Act.
<b>Biodiversity Stewardship Site Assessment Report (BSSAR)</b>	An assessment report that is required to accompany an application to establish a BSA.
<b>Business case</b>	An assessment of the financial feasibility of establishing a BSA site, prepared in accordance with standard business case requirements.
<b>Credit sale agreement (CSA)</b>	A contract between the BCT and the credit owner or landholder committing both parties to a credit sale.
<b>Due diligence assessment</b>	An assessment of whether a proposed BSA meets the eligibility criteria in the BC Act, prepared in accordance with the BCT's standard due diligence checks.
<b>DPIE</b>	Department of Planning, Industry and Environment
<b>Feasibility assessment</b>	A relatively low cost, initial assessment to determine if a BSA is feasible, prepared in accordance with standard feasibility assessment requirements.
<b>Fit and proper person test</b>	Refers to the requirements under Section 5.8(5) of the BC Act and related BCT guidance and procedures.
<b>Fixed price offer (or FPO)</b>	An offset delivery mechanism in which the BCT offers a set price to purchase credits. This may be an open or targeted FPO (refer to Appendix 1).
<b>Obligation</b>	The obligation the BCT is under to secure offsets from the money paid into the Biodiversity Conservation Fund (BCF) by a developer (refer to s6.2(g) of the BC Act).
<b>Credit Tender</b>	An offset delivery mechanism in which credit owners or landholders bid to sell credits to the BCT (refer to Appendix 1).
<b>Total Fund Deposit (or TFD)</b>	The amount that is set aside to manage the BSA in accordance with the management plan.

## About this guide

This guide aims to support landholders who are interested in obtaining financial assistance to set up a biodiversity stewardship agreement (BSA). The BCT recognises that many landholders face barriers to participating in the Biodiversity Offsets Scheme due to the high upfront costs of establishing a BSA. The assistance is intended to facilitate the supply of credits by helping landholders to undertake these assessments.

The term 'financial assistance' in this guide refers to both payments to the landholder and in some cases, expenses incurred by the BCT, that will be recovered by the BCT through the purchase of credits.

The assistance is available to landholders who intend to sell credits to the BCT. Funding for assistance is limited and will be provided by the BCT on a restricted, case by case basis.

## Who is eligible for assistance?

Landholders are eligible for financial assistance if they:

- i. Participate in either a BCT biodiversity credit **tender** or a BCT biodiversity credit **targeted fixed price offer** (participants in the open fixed price offer are not eligible)<sup>1</sup>, and
- ii. **Receive an offer** from the BCT to purchase credits, and
- iii. **Commit to sell credits to the BCT** within a specified time, and
- iv. **Satisfy the 'fit and proper person test' for BSAs.**

Given that the BCT has limited funds to provide financial assistance and that the number of participating landholders in a credit tender or targeted fixed price offer may be greater than can be supported by this limit, the BCT will need to prioritise the assistance provided. The selection criteria for prioritising assistance will be outlined in the participant's guide for the credit tender or targeted fixed price offer and is expected to include:

- **New participants:** assistance may be preferentially offered to landholders who have had no previous biobanking or BSA sites established, to encourage expanded participation in the Biodiversity Offsets Scheme.
- **Landholders willing to co-fund the BSA establishment costs:** landholders who offer to co-fund a portion of the establishment costs may be preferentially offered assistance.
- **Sites that most effectively meet the BCT's objectives**, including sites that will:
  - generate a high volume of credits that the BCT is seeking to purchase
  - deliver the required credits with minimal financial risk to the BCT
  - meet offset obligations that have been held by the BCT for a long period of time
  - generate credits that are expected to be difficult to source
  - generate credits that may contribute to the BCT's strategic portfolio of credits
  - help meet strategic conservation outcomes, including sites within areas identified as priorities within BCT regions.

There is no financial screening component to this assistance (i.e. landholders will not have to demonstrate financial need) as the purpose is to encourage participation and stimulate credit supply.

**Important note** The above criteria are only used by the BCT when deciding to offer financial assistance. They are not used to determine which landholders to purchase credits from. Other criteria are used for this purpose and these are identified in the participants guide for the targeted FPO or credit tender.

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<sup>1</sup> Appendix 1 provides a summary of the delivery mechanisms used by the BCT to obtain credits. Financial assistance is not available to Open Fixed Price Offer applicants due to practical considerations in the evaluation process for this mechanism.

## How do I apply for assistance?

The process of obtaining financial assistance is integrated into the BCT's delivery of credit tenders or targeted fixed price offers (FPOs) (see Appendix 1). The participants guide for the credit tender or targeted FPO will include information about how to express interest in obtaining assistance if it is being offered.

For **targeted FPOs**, the BCT undertakes feasibility assessments of suitable properties and short-lists properties for further assessment. The availability of assistance is discussed at this stage with landholders of selected properties. The landholder may be offered upfront funding for a business case and/or a Biodiversity Stewardship Site Assessment Report (BSSAR), or the BCT may provide a service of preparing these assessments for the landholder. The BCT may use this process during place-based offset delivery such as the Growth Centres biodiversity offsets program.

For credit **tenders**, landholders will typically be required to self-fund and submit a business case with their bid. If financial assistance is being provided for the credit tender, then applicants can express their interest on the bid form. Successful bids may then be offered financial assistance for the BSSAR.

**Important note** The BCT has limited funding for assistance. These funds will be primarily available for landholders participating in a targeted FPO. Please understand that only a small number of landholders participating in a credit tender will be able to receive assistance.

## What assistance is provided?

Financial assistance is provided in two parts. The first part helps with the upfront costs for a business case and other preliminary assessments. The second part is only offered after the business case has been completed and both the landholder and BCT agree to proceed with a sale of credits.

The costs and funding limits in **Table 1** are a guide and may be varied by the BCT in accordance with the details included in the participants guide for a targeted FPO or credit tender. Variations to the funding limits may also be made on a case by case basis depending on the nature of a proposed site. The final amount of assistance is determined on actual costs as indicated by invoices provided to the BCT.

In a targeted FPO, the BCT may prepare the business case or BSSAR on behalf of the landholder. If this occurs, then the BCT will provide the landholder with a quote and invoice for this work.

**Table 1** Cost items and financial limits of assistance

Cost item	Targeted FPO	Credit Tender
<b>Part 1 – Preliminary assessments</b>		
• Preparing business case	✓	Limited circumstances only
• Preparing 'due diligence' assessment	✓	✓
• Obtaining financial and legal advice	✓	✓
<b>Part 1 funding limit</b>	<b>\$30,000</b>	<b>\$10,000</b>
<b>Part 2 – Final assessments</b>		
• Preparing BSSAR	✓	✓
• Preparing BSA application	✓	✓
<b>Part 2 funding limit</b>	<b>\$60,000</b>	<b>\$60,000</b>
<b>Total funding limit</b>	<b>\$90,000</b>	<b>\$70,000</b>

**Note** Financial assistance is typically not provided for a business case through a credit tender as the landholder is required to self-fund and submit the business case with their bid.

# Arranging assistance

## Expression of interest

An expression of interest in assistance is assessed in accordance with this guide as well as any specific eligibility criteria outlined in the participants guide for the credit tender or fixed price offer.

The consideration of offering assistance to a landholder only occurs after a decision has been made to offer to purchase credits. In other words, the decision to purchase credits proceeds in accordance with the participants guide for the targeted FPO or credit tender. Once this decision has been made then the BCT considers the availability of assistance funds and the priority of the site for this funding. If the decision is made to offer assistance, then the offer to purchase credits and to provide assistance are made at the same time.

## Agreement

Arrangements for the financial assistance may be incorporated into the credit sale agreement or provided as a separate document for signing by both the landholder and the BCT. It may include terms for both Part 1 assistance (i.e. preliminary assessments) and / or Part 2 (final assessments). The period of the agreement will depend on the time taken to complete the credit sale. This is up to a year in most cases; however it may be longer.

The landholder is responsible for engaging an accredited assessor to undertake the assessments unless it is agreed that the assessments are to be undertaken by the BCT.

## Repayment

The BCT intends to recover the funding provided for assistance so that the money can be re-used to help other landholders. If a landholder has received funding to undertake assessments, then the money provided constitutes an advance payment for the purchase of credits. The balance of payment is made once the credits are transferred.

If the BCT undertakes the assessments as a service to the landholder, then an invoice for the cost of this service will be provided to the landholder at the time of the credit purchase.

The repayment amount is recovered as a reduction in the landholder's 'Part B' payment that is received from the credit sale once the required total fund deposit (TFD) is satisfied. Repayments will be invoiced as separate cost items so that the credit sale price is not affected by the assistance arrangement and so avoids distorting market information.

## Unrecovered payments

While the BCT intends to recover the assistance funding, it accepts that this may not be possible in all cases. This is a risk taken by the BCT in order to encourage new BSA sites.

It is recognised that a BCT-funded business case may result in either itself or the landholder deciding not to proceed with the finalisation of a BSA. If this occurs, then the BCT bears the cost of the business case.

If both the BCT and the landholder agree to proceed with a credit sale, then circumstances may still arise in which the BSA is not finalised. In these circumstances, and as a general guide, the BCT will bear the cost of the assessments unless the landholder has breached the terms of the credit sale agreement.

## APPENDIX 1 – How does the BCT obtain credits?

The BCT uses a suite of delivery mechanisms to obtain biodiversity credits to acquit the offset obligations it receives from developers (see Table 2).

**Table 2 BCT delivery mechanisms for obtaining credits**

Delivery mechanism	
<b>Credit tender</b>	<ul style="list-style-type: none"> <li>• Reverse auction process where credit owners or landholders bid to sell advertised credits to the BCT.</li> <li>• May be open to both existing and prospective credit owners (e.g. new landholders willing to establish a BSA).</li> <li>• Prospective credit owners must submit a BSA business case with their bid.</li> </ul>
<b>Open fixed price offer</b>	<ul style="list-style-type: none"> <li>• Existing or prospective credit owners directly approach the BCT to sell credits displayed on the BCT's Wanted Credits List.</li> <li>• Prospective credit owners must submit, as a minimum, a BSA feasibility assessment with their application.</li> <li>• Applications are considered on the date of submission and other criteria rather than on a competitive basis.</li> <li>• BCT offers to purchase credits at a non-negotiable fixed price.</li> </ul>
<b>Targeted fixed price offer</b>	<ul style="list-style-type: none"> <li>• BCT offers to purchase credits directly from the credit owner / landholder.</li> <li>• May be open to both existing and prospective credit owners.</li> <li>• Will be used in limited circumstances and specific regions to obtain highly sought-after credits.</li> <li>• BCT offers to purchase credits at a non-negotiable fixed price.</li> </ul>
<b>Revolving fund</b>	<ul style="list-style-type: none"> <li>• BCT purchases a property, establishes a BSA over the site to generate the relevant biodiversity credits which would then be used to acquit credit obligations. Property on-sold with BSA.</li> <li>• Likely to be used opportunistically.</li> </ul>