



Biodiversity
Conservation
Trust

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**Biodiversity Credit
Open Fixed Price Offer**

Participants guide

December 2022

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Glossary of terms

BAM	Biodiversity Assessment Method
BAM credits	Credits created under the BC Act using the Biodiversity Assessment Method
BBAM credits	Credits created under the former BioBanking Scheme using the BioBanking Assessment Method
BC Act	Biodiversity Conservation Act 2016
BC Regulation	Biodiversity Conservation Regulation 2017
BCF	Biodiversity Conservation Fund
BCT	Biodiversity Conservation Trust
Biodiversity Stewardship Agreement (or BSA)	An agreement made under Part 5, Division 2 of the BC Act.
Biodiversity Stewardship Site Assessment Report (or BSSAR)	An assessment report that is required to accompany an application to enter into a BSA.
Credit class	A credit class is a group of credits that share the same attributes, as described by the offset rules in clause 6.2 of the BC Regulation. The attributes comprise of; 1) IBRA Subregion, 2) Offset Trading Group and 3) Hollow-bearing tree status.
Credit class options	The range of credit classes that are available to acquit an obligation under the applied offset rule.
Credit sale agreement (or CSA)	A contract for selling proposed credits that commits both the BCT and the landholder to the sale.
Credit sale form	A contract for selling existing credits that commits both the BCT and the credit owner to the sale.
DPE	Department of Planning and Environment
Equivalence statement	An ' Assessment of reasonable equivalence of biodiversity credits ' that is issued by DPE for BBAM credits to determine the equivalent number of BAM credits.
Fixed price offer (or FPO)	A credit purchase method in which the BCT offers a set price to purchase credits.
Hollow bearing tree (or HBT)	An attribute of a credit class as defined in the BAM
Obligation	The obligation the BCT is under to secure offsets from the money paid into the BCF by a developer (refer to s6.2(g) of the BC Act.
Offset Trading Group (or OTG)	An attribute of a credit class, with OTG tiers identified in Table 5 of the BAM.
Subregion	Interim Biogeographic Regionalisation of Australia (IBRA) subregion

1. Open fixed price offer

This guide aims to assist landholders and biodiversity credit owners who are interested in participating in a biodiversity credit open fixed price offer under the Biodiversity Conservation Trust's (BCT) Biodiversity Offsets Program.

The Biodiversity Offsets Scheme (the 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 act as a market intermediary 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 these offset obligations.

An open fixed price offer is one of the credit purchase methods used by the BCT. Other methods are described in Appendix 1.

The December 2022 Open Fixed Price Offer opens on 8 December 2022 and closes at 11:59pm on 16 December 2022. Applications received after the closing time and date may not be considered further at BCT's absolute discretion.

2. How does the fixed price offer work?

In an Open Fixed Price Offer (Open FPO), the BCT offers applicants a price at which it wants to buy credits.

The Open FPO is available to existing credit owners as well as landholders who are interested in establishing a Biodiversity Stewardship Agreement (BSA).

Credit owners or landholders can apply to sell their existing or proposed credits to the BCT. The BCT ranks these applications in accordance with the evaluation process outlined in section 6.3. A price offer is provided to participants in the order of ranking.

For **existing credit owners**, if the BCT's price offer is accepted then the BCT will proceed directly with the transaction.

Landholders proposing to establish a BSA will need to submit a BSA feasibility assessment prepared by an accredited assessor with their application. If the BCT's price offer is accepted, the BCT will commit in-principle to purchase the credits, subject to a business case being prepared to confirm that the wanted credits are likely to be created. The credits are then purchased once the BSA site is established.

By participating in the Open FPO, landholders will have the BCT as a committed buyer of credits before proceeding with preparing the Biodiversity Stewardship Site Assessment Report (BSSAR) and before incurring additional assessment costs.

If the BCT commits to purchase credits then the credits are no longer wanted and are not available for lower ranked applications in the evaluation process.

3. What are biodiversity credits?

Biodiversity credits are the units used to quantify biodiversity in the NSW Biodiversity Offset Scheme.

There are two broad categories of credits: **ecosystem credits** and **species credits**. There are many different types of ecosystem and species credits.

The credit types wanted by the BCT are identified by a set of attributes known as a **credit class**. A credit class comprises up to four attributes as described in the offset rules for the Scheme¹. The attributes are:

- the IBRA subregion² of the wanted credits,
- the Offset Trading Group of the wanted credits - Offset Trading Groups are groups of credit types that have similar characteristics,
- for ecosystem credits, the vegetation formation or plant community type, and
- for ecosystem credits, the presence or absence of hollow-bearing trees.

In other words, a credit class sought by the BCT represents all credit types that are in the wanted subregion and are also in the wanted Offset Trading Group and, for ecosystem credits, are identified with the presence of hollow-bearing trees, if required.

4. What biodiversity credits are being sought?

The credit classes wanted by the BCT are listed in the Wanted Credit List available on the BCT's [Credit Offer Portal](#) (refer to section 6.2). The list identifies the number of credits wanted by the BCT for each credit class. An applicant can offer to sell any number of credits up to this maximum number.

The Wanted Credits List can be searched by filtering the credit class attributes. For example, you are able to select the IBRA subregion of interest and then search for the required Offset Trading Group.

For existing credit owners, the credit class attributes are provided on the credit report or, for BBAM credits³, on the **equivalence statement**.

Interested landholders can refer to the BCT's [Information for new landholders wanting to offer credits to the BCT webpage](#). The webpage includes a link to a map to assist in determining the subregion in which your property is located.

¹ Refer to clause 6.2 of the BC Regulation.

² The term 'IBRA subregion' refers to the Interim Biogeographic Regionalisation of Australia (IBRA) subregion, as defined in the BC Regulation.

³ BBAM credits are credits created using the BioBanking Assessment Method (BBAM) under the former BioBanking Scheme.

4.1 How does the Wanted Credits List work?

The Wanted Credits List identifies the number of credits that are wanted by the BCT for each credit class. The list is based on the obligations received by the BCT. The BCT can acquit an obligation with credits from a range of different credit classes in accordance with the BCT's offset rules⁴. The credits wanted for an obligation are therefore listed in each of the possible credit class options. The list is then compiled by summing the number of credits required from all obligations for each credit class (See Box 1).

Box 1 Example of how the Wanted Credits List works

The BCT has received an obligation for 100 credits. The obligation can be acquitted by five credit classes across five different subregions. The Wanted Credits List will therefore identify 100 credits as being wanted in any of these five subregions. If the BCT obtains 20 of the wanted credits from one of the subregions then the Wanted Credit List will identify 80 credits remaining as wanted in each of the five subregions.

The Wanted Credit List is updated and revised for each credit purchase program (e.g. for each release of the Open FPO). The update may include additional credits wanted for recently received obligations and remove wanted credits for which commitments have been made. It may also target specific credit classes and not display others. These changes will affect the number of credits wanted and the BCT's price offer.

5. Who is eligible for an offer?

The Open FPO is open to applicants who:

- own existing credits created under the current Biodiversity Offsets Scheme (termed BAM credits); or
- own existing credits created under the former BioBanking Scheme (termed BBAM credits) and have obtained an **equivalence statement** to determine the equivalent number of BAM credits; or
- are landholders and have obtained either a feasibility assessment, a business case or a draft BSSAR from an accredited assessor, or have submitted an application for a BSA.

All biodiversity credit owners that meet these requirements will be able to participate in the Open FPO, subject to the conflict of interest rules (see section 5.1).

Handy hint: If you own BBAM credits then make sure to allow sufficient time to obtain an equivalence statement from DPE before applying for the Open FPO.

⁴ Refer to clause 6.6 of the BC Regulation.

5.1 Conflicts of interest

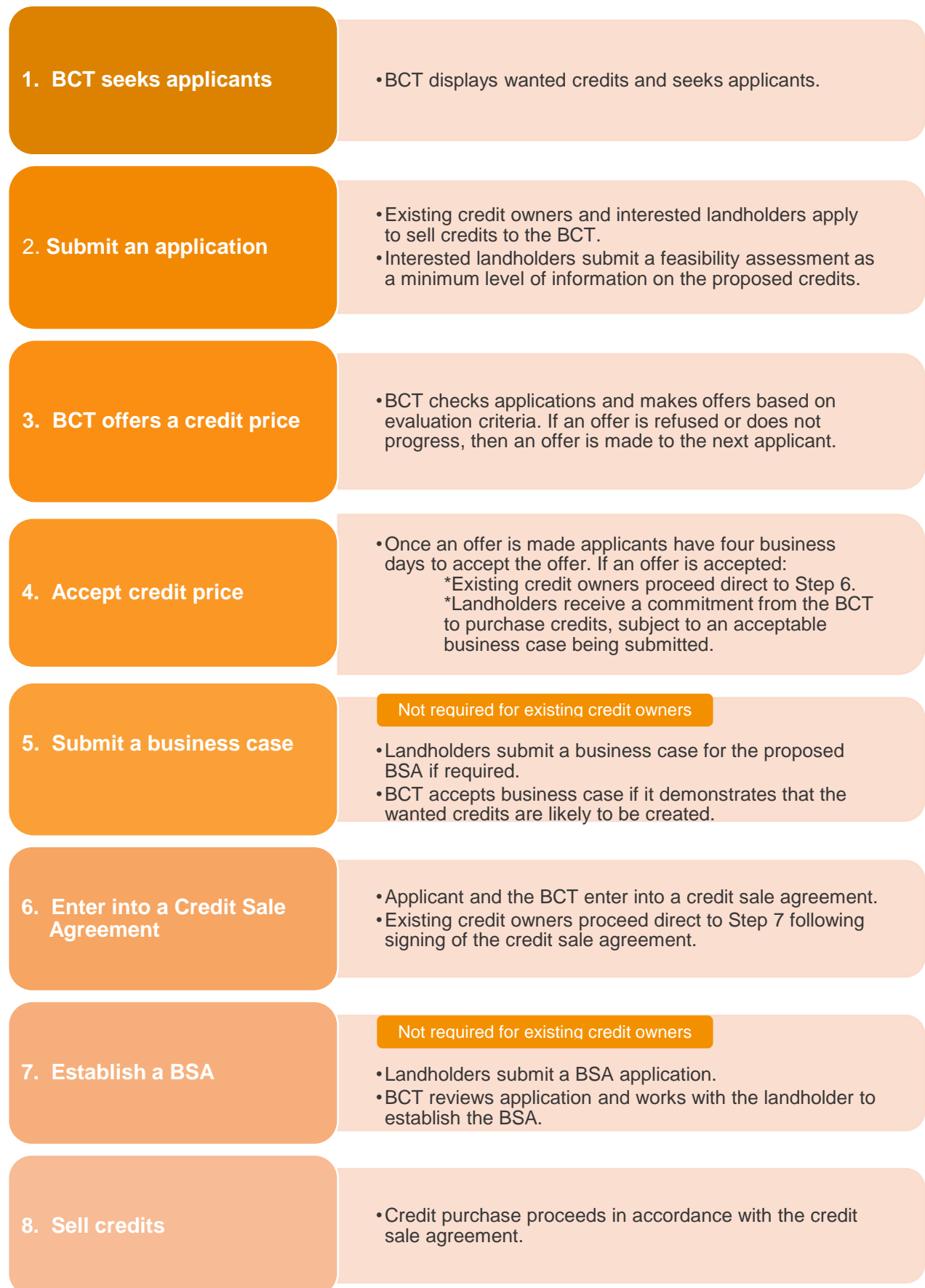
Applicants will be required to declare any conflicts of interest and how these will be managed. Applicants who have associations that are considered by the BCT to represent a conflict of interest which is unable to be managed, may not be eligible.

BCT staff and Board members (and their close family members) and any contractors involved in the delivery of the Open FPO are not eligible to participate. Any offers received from such parties will not progress further in the process.

6. Fixed price offer process

The steps for participating in the Open FPO are outlined in Figure 1. Note that some of these steps are by-passed if you have existing credits or, as a landholder, you have already obtained a business case, a draft BSSAR, or applied for a BSA.

Figure 1. Steps to participate in the open fixed price offer



6.1 BCT seeks applicants

The BCT will seek applicants by promoting the Open FPO through the BCT website and notifying all accredited assessors and other participants in the biodiversity credit market.

The BCT may contact participants on the DPE Credit Supply Register who are likely to have specific credits wanted by the BCT. It may also approach other credit owners that are not listed on the Register. Participants will be informed of the Open FPO and encouraged to submit an application.

6.2 Submit an application

To participate in the Open FPO you will need to complete and submit an on-line application form that is available on the BCT's [Credit Offer Portal](#). Use the link on the page to open the Wanted Credit List for the Open FPO. Select the credits that you want to sell and then open and complete the on-line form.

An application can be submitted for:

- one or more wanted credit classes,
- any number of credits up to that displayed on the Wanted Credits List.

The application will require you to upload the following documents (Table 1).

Table 1: Documents required for an application to sell credits to the BCT under the Open FPO

Applicant	Documents required
Owner of BAM credits	<ul style="list-style-type: none">• BAM Credit Summary Report
Owner of BBAM credits	<ul style="list-style-type: none">• Credit ownership report• 'Assessment of reasonable equivalence of biodiversity credits' report
Landholder proposing a BSA	<ul style="list-style-type: none">• Either a Feasibility assessment,• or if available, a Business Case,• or if available, a draft BSSAR,• or if available, a BSSAR submitted with a BSA application.

Notes: Reports may be redacted to remove any commercially sensitive information.
The application authorises the BCT to verify the credits with DPE.

Feasibility assessments and business cases are to include the content described on the BCT's web pages (see [Feasibility assessment](#) and [Business case](#)).

The application must be completed by either the registered owner of the credits, or the landholder of the property for the proposed BSA, or a person authorised to represent the credit owner or landholder.

Once the on-line application is submitted you will receive an emailed acknowledgement of its receipt.

Applications are non-binding, meaning applicants can choose not to accept the BCT's price offer.

If credits included in an application are no longer available for sale then applicants are required to inform the BCT immediately. Similarly, the BCT will notify the applicant as soon as possible if the credits are no longer being sought (refer to section 6.3.4).

6.3 BCT offers a credit price

6.3.1 Initial review of applications

The BCT will undertake an initial review to ensure that the application is complete.

If an application is incomplete or provides insufficient information then the applicant may be notified and given an identified period of time to complete the application before it is rejected.

Any applications that are ineligible may be rejected and not considered further, at BCT's absolute discretion. If the application is rejected then the applicant can re-apply for the Open FPO (refer to section 6.4.1)

6.3.2 Applications are evaluated

A credit price will be offered to applicants in the order of the date the application is submitted, with earlier dated applications considered first. All applications received on the same day (up to 11:59pm) are treated equally irrespective of what time during that day they are received.

If two or more applications are received on the same day for the same credit class, then applications for existing credits will be given priority over proposed credits. This reduces the BCT's risks and transaction timeframes.

If multiple applications are received on the same date for **existing credits**, then priority is given to:

1. Applications with the higher number of offered credits for the credit class, up to the number wanted by the BCT, then
2. Sites in passive management, with sites with a higher percentage of the Total Fund Deposit satisfied being prioritised, then
3. Sites in active management, with older established sites prioritised over newer sites.

Prioritising credits from sites in passive management aims to bring forward the active restoration of sites and so maximise the conservation benefit of the BCT's credit purchase.

If multiple applications are received on the same day for **proposed credits**, then priority is given to:

1. The more progressed proposed sites. Credits with a submitted BSA application will be prioritised over credits with a Draft BSSAR (with full plot data), then a business case, and then feasibility assessment, then
2. Higher number of offered credits for the credit class, up to the number wanted by the BCT, prioritised over less credits, then

The prioritising of credits from more progressed sites aims to reduce the BCT's risks and transaction timeframes.

If the above criteria result in equally ranked applications for the same credit class, then priority will be given to applications considered by the BCT, at its sole discretion, to reduce its transaction risks, costs or timeframes, or to deliver the best conservation outcome.

6.3.3 Issue of price offer

A price offer is made by email to the highest ranked applicants for each wanted credit class. The offer is provided to both the applicant and the applicant's nominated secondary contact.

The offer is provided as a price per BAM credit. If you have BBAM credits, the '*Assessment of reasonable equivalence of biodiversity credits*' report can be used to calculate the equivalent number and price of the BBAM credits that are offered to be purchased.

6.3.4 Price offers may be delayed or not provided

A credit price will generally be provided within twenty business days of a complete application being received. Timeframes may be amended by the BCT at its discretion.

Applicants will be notified if the BCT delays or decides not to provide a price offer.

The BCT may delay providing a price offer if:

- numerous applications have been received for the same wanted credits. In this situation the BCT will conclude an offer to the earlier application before an offer is made to a subsequent application. This could cause delays depending on the number of applications in the 'queue'.
- applications are received during and following a credit tender that is being held for the same wanted credits.

The BCT will not provide a price offer if:

- it has determined, at its sole discretion, that an application does not provide sufficient evidence that the credits are available for sale. For example, if the feasibility assessment or business case submitted with an application does not provide sufficient evidence that the number and type of credits are likely to be created then a price offer will not be provided.
- it has already committed to purchasing the wanted credits or if the credits are no longer being sought for some other reason, which is at the discretion of the BCT. In this situation the credits will be removed from the Wanted Credits List the next time it is updated.

If the BCT decides not to provide a price offer then the application will be terminated. Applicants can re-apply for the next Open FPO program if the credits are available on the Wanted Credits List.

6.4 Acceptance of credit price

The BCT will make separate offers for each credit class contained in an application. This means that if you offer to sell a range of credit types then you will receive multiple responses to your application.

If the BCT makes an offer to purchase your credits then the credit price and the number of credits offered to be purchased is fixed and not able to be negotiated.

You will be provided **four business days to respond to an offer**. This enables us to progress lower ranked applications in a timely manner if you choose not to accept the BCT's offer. Responses to the offer will be received up to 11:59pm on the designated date, as determined by the date stamp on your return email.

The offer is accepted if the applicant provides emailed advice of acceptance within the required time period.

The offer is refused if either the applicant advises in writing via email that they refuse the offer or there is no response within the required time period. Refusal of the offer means that the application is rejected and will not be considered further. If the application is rejected then the applicant can re-apply for the Open FPO (refer to section 6.4.1).

Handy hint: Be prepared to receive an offer! When you submit an application give some thought to the minimum credit price you will be prepared to accept. You'll then be ready to respond to the BCT's offer within the four day period.

Also, remember that your minimum credit price must be sufficient to meet the relevant proportion of the Total Fund Deposit that is required to be paid. Box 2 provides more details.

Finally, check your emails and also your 'spam folder' in case the offer email is not displayed in your inbox. Unfortunately, if you miss the offer then we can't accept your application and so will make an offer to the next ranked applicant.

Box 2 Total Fund Deposit requirements

It is the credit owners responsibility to ensure that they only agree to a credit sale price if the TFD requirements of the BC Act can be satisfied. For proposed credits, the TFD requirements for selling credits will be estimated through the business case and then finalised when the BSA is established.

Credits can not be transferred to a buyer unless the relevant proportion of the TFD is paid into the Biodiversity Stewardship Payment Fund. The 'relevant proportion' refers to the proportion that the number of biodiversity credits to be transferred bears to the number of biodiversity credits created at the site (refer to s6.21 of the BC Act).

The relevant proportion of the TFD can be determined using the approach identified in Part D of the ['Application to transfer biodiversity offsets scheme credits'](#). The relevant proportion is calculated based on both ecosystem and species credits.

As an example, if 100 credits are created on a BSA site for which the TFD is \$1,000,000, and you intend to sell 50 credits, then the relevant proportion of the TFD that must be paid through the sale is 50%. In other words, \$500,000 must be paid into the Biodiversity Stewardship Payment Fund as part of the credit sale. This means the minimum price at which you can sell your credits must be, on average, \$10,000.

The BCT's [BSA Landholder Guide](#) (Section 5.4.1) provides an additional example of determining the TFD requirement.

If the credit owner accepts the BCT's offer then the BCT will provide confirmation of its in-principle commitment to purchase the credits and details of the next steps in the process.

Applicants with existing credits will proceed directly to Step 6 – Entering into a credit sale agreement.

If the applicant is a landholder proposing to establish a BSA site then both the BCT and the landholder will commit in-principle via email to proceed with the intended credit transaction. The commitment is subject to a business case being prepared to confirm that the wanted credits are likely to be created at the required price (a BSSAR also serves this purpose). Step 5 is necessary for these landholders.

6.4.1 What are my options if I do not accept the offer

If you do not accept the BCT's price offer and / or the application is refused then you can:

- Re-apply for the Open FPO. The BCT's offer price for the wanted credits may change over time and you can re-apply as often as you like. Your application will be considered based on the new application date.

and / or

- Submit a bid for BCT biodiversity credit tender. Tenders are regularly held and are available for either all wanted credits or a subset of these credits. Landholders proposing to establish a BSA will require a business case to participate in the tender. The tender is a competitive process and the BCT may accept bid prices that are either above or below that offered in the Open FPO.

6.5 Submit a business case

This step is not required for existing credit owners.

A business case is required if a landholder proposes to establish a BSA and has provided a feasibility assessment with their Open FPO application. The business case provides the landholder with information that is also required for the BSSAR.

The purpose of the business case is to confirm that the wanted credits are likely to be created at the required price. It assists the landholder in making an informed decision to proceed with the BSA. It also ensures the BCT is not committing to purchase credits that are unlikely to be delivered and so preventing other participants from having the opportunity to sell these credits.

The business case will need to include the content described on the BCT's webpage. It must provide sufficient evidence to substantiate the estimated number, type and required attributes of the credits that are wanted for sale from the proposed BSA site. The BCT will only be able to proceed with the intended purchase if sufficient evidence is provided.

The landholder will need to adhere to the timeframes outlined in Table 2.

Table 2: Timeframes for landholders without existing BSAs to proceed with a credit sale

Documents to be provided to the BCT	Required date
Evidence of engagement of an accredited assessor to prepare a business case	<ul style="list-style-type: none">• One calendar month following advice from the BCT of its in-principle commitment to purchase the credits
Finalised business case	<ul style="list-style-type: none">• Three calendar months following advice from the BCT of its in-principle commitment to purchase the credits

Note: *The required dates may be varied by agreement*

If tasks in Table 2 are not completed by the required date then the BCT may terminate the in-principle commitment to purchase the credits.

If information provided in the business case is insufficient then the BCT will notify the applicant and will provide ten business days (subject to any agreed variation) for the required information to be submitted. If satisfactory information is not received within this period then the in-principle commitment to purchase credits will be terminated.

6.5.1 BCT acceptance of business case

The business case (or BSSAR) is accepted if the BCT is satisfied that the proposed BSA is likely to create the required number and types of wanted credits.

If the business case is accepted the BCT will provide confirmation to the applicant of the intention to proceed with the credit transaction.

If the business case is not provided by the required date, or is not accepted, then the BCT will terminate the intended credit purchase. The wanted credits will then be re-displayed on the Wanted Credits List.

6.6 Enter into credit sale agreement

For proposed credits, the **Credit Sale Agreement (CSA)** is established once the BCT has received an acceptable business case or BSSAR. The CSA provides a contractual agreement in which both the BCT and the landholder commit to proceed with the sale once the credits are created.

For existing credits, a **Credit Sale Form** is used instead of a CSA to set the terms of the sale. The credit owner submits the form following agreement to the BCT's price offer.

6.6.1 What happens if the BSA does not create the required credits?

The CSA is a commitment by the landholder and the BCT to proceed with the credit transaction in accordance with the terms of the CSA. If less wanted credits are created by the BSA than expected then, subject to the terms of the CSA, the BCT will purchase as many credits as are created.

Important note: By entering into a CSA the BCT is not in any way committing to the landholder that the BSA will create the required credits.

The landholder is responsible for their decision to establish the BSA and to enter into a CSA with the BCT. It is recommended that the landholder carefully consider the advice from an accredited assessor on the number and type of credits likely to be created by a BSA, as well as any financial advice that is required for their decision. Valuable advice is also provided in the BCT's [BSA Landholder Guide](#) for establishing a BSA.

6.7 Establish a BSA

This step is not required for existing credit owners.

The landholder will require an accredited assessor to prepare the BSSAR and other documents that support a BSA application.

The submitted BSA application is reviewed by the BCT through administrative processes that are independent of the credit transaction. This means that the BCT's earlier review of the business case to inform its decision to enter a CSA has no bearing on the subsequent review of the BSSAR that is prepared for the BSA application.

Landholders will need to demonstrate that adequate progress is being made to establish the BSA. The required timeframes will be specified in the CSA. Table 3 provides an example of these timeframes. If satisfactory progress is not occurring in accordance with the CSA then the CSA may be terminated.

Table 3: Example of timeframes for landholders to establish a BSA

Documents to be provided to the BCT	Required date
Evidence of engagement of an accredited assessor to prepare a BSSAR	<ul style="list-style-type: none">Two calendar months following signing of the credit sale agreement
Evidence of submission of an application to enter into a BSA	<ul style="list-style-type: none">Twelve calendar months following signing of the credit sale agreement

Note: *The above timeframes are an example and will be specified in the CSA.*

6.8 Sell credits

For applicants with existing credits, the credit transaction usually proceeds within six weeks of a Credit Sale Form being submitted by the credit owner (subject to the terms of the Form).

For landholders with a proposed BSA, the credit transaction usually occurs within six weeks of the BSA being registered on title (subject to the terms of the CSA).

7. Use of personal information

The application form seeks your consent for the BCT to access, store and use personal information that you have submitted and also information held by DPE and the BCT.

We will use this information for the purpose of assessing your application and purchasing the credits (if a purchase is agreed). With your consent, this includes information from DPE and the BCT to verify the ownership and attributes of the credits that are the subject of your application. It also includes attributes of the BSA or Biobanking agreement that created the credits, including information on the Total Fund Deposit for the agreement.

There is no legal requirement for you to provide us with personal information. However, if you do not provide all required information, we may not be able to consider your application.

If your application includes personal information about other persons that together comprise the applicant, then you must first obtain the consent of that person for the BCT to collect and use their information.

The Privacy Notice included in the application provides further information.

8. Additional information

Further information on the Open FPO, including the application form, is available on the BCT's website www.bct.nsw.gov.au.

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 provide the enquirer with a competitive advantage over other possible applicants for the Open FPO. The BCT can however provide procedural information on the application process.

Appendix 1 - How does the BCT obtain credits?

The BCT uses a suite of credit purchase methods to acquit the offset obligations it receives from developers (see Table 4).

Table 4 BCT credit purchase methods

Credit purchase method	
Credit tender	<ul style="list-style-type: none"> • <i>Applicants offer a price at which they are prepared to sell their credits.</i> • Credit owners or landholders submit a bid price through a competitive, reverse auction process. • Open to existing credit owners and / or new landholders willing to establish a BSA. • New landholders must submit a BSA business case with their bid. • Bids are considered on a competitive basis.
Open fixed price offer	<ul style="list-style-type: none"> • <i>BCT offers applicants a price at which it wants to buy credits.</i> • Credit owners or landholders apply to obtain the BCT's offer price. • New landholders must submit, as a minimum, a BSA feasibility assessment with their application. • Applications are considered in a ranked order. • BCT offers to purchase credits at a non-negotiable fixed price.
Targeted fixed price offer	<ul style="list-style-type: none"> • BCT offers to purchase credits directly from the credit owner / landholder. • May be open to both existing and prospective credit owners. • Will be used in limited circumstances and specific regions to obtain highly sought-after credits.
Revolving fund	<ul style="list-style-type: none"> • 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. Likely to be used opportunistically.