



Biodiversity
Conservation
Trust

Biodiversity Conservation Trust

**Policy - variation and termination of BCT
agreements | March 2020**

Varying or terminating an agreement

The NSW Biodiversity Conservation Trust (BCT) works with landholders to conserve biodiversity on their land. This involves establishing one of three agreement types: Wildlife Refuge Agreements (WRAs), Conservation Agreements (CAs) (funded and unfunded) and Biodiversity Stewardship Agreements (BSAs).

The BCT also administers private land conservation agreements previously established under other legislation including Trust Agreements, Biobanking Agreements, Voluntary Conservation Agreements, Wildlife Refuges and Registered Property Agreements.

The statutory framework for varying or terminating these agreements depends on the agreement type. The Biodiversity Conservation Act 2016 applies to the majority of agreements. However, some agreement types are varied in accordance with the legislation under which they were established.

Principles for varying or terminating an agreement

The BCT applies the following principles when considering requests to vary or terminate an agreement:

- Variations and terminations are consistent with legislative requirements.
- Terminating biodiversity stewardship agreements and conservation agreements is generally not supported.
- Varying biodiversity stewardship agreements and conservation agreements is supported only where there is net biodiversity conservation gain.
- The BCT adopts an efficient and cost-effective approach to varying or terminating agreements.
- There is no requirement to vary an agreement with change of ownership.

Consideration of biodiversity value

The BCT will only vary an agreement where a net biodiversity conservation gain will be achieved. A net biodiversity conservation gain is where the variation:

- increases the area of biodiversity protected by the agreement, or
- amends the management plan to better manage the agreement to achieve biodiversity conservation (i.e. five-year management plan review), or
- adds species credits to an existing BSA to better manage habitat for threatened species.

Exceptional circumstances

The BCT may consider varying an agreement under exceptional circumstances. These may include where new significant threats to biodiversity values are identified, or where approved development or a change in legislation has affected the ability for the agreement to be managed for biodiversity conservation.

Exceptional circumstances will be reviewed on a case by case basis. Entities who consider that they may have exceptional circumstances should engage early with the BCT.

Exceptional circumstances do not include an owner changing their mind or a change in land ownership.

Requests to terminate an agreement

Requests for agreements to be terminated would be refused in most cases and would only be considered in exceptional circumstances (see above) and where the agreement area is no longer protecting biodiversity. Requests for terminations need to be approved by the BCT CEO.

In the case of Biodiversity Stewardship Agreements, the legislation allows an owner to request a termination within 3 months after the agreement is entered, or, after 5 years if: a) no species or ecosystem credits have been created, or b) in the case where credits have been created, none of those credits have been retired.

In the case of Wildlife Refuge Agreements only, these may be terminated at any time at the written request of the landholder(s).

Fees for varying or terminating an agreement

A schedule of fees for varying a BSA is provided on the DPIE website - <https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/biodiversity-offsets-scheme/fees>.

The cost of variations to conservation agreements and other legacy agreements that result in a biodiversity conservation gain will be met by the BCT (excluding offsets).

The cost of Wildlife Refuge Agreement revocations (termination) will be met by the BCT.

The cost of any other variation or termination to an agreement approved due to exceptional circumstances will be borne by the landholder. This includes legal fees to draft the deed of variation or termination, survey or mapping requirements and registration fees.

Unspent finance provided by the BCT that has been paid to the landholder (grant funding or annual management payments) will need to be reimbursed at the time of variation or termination.

Consultation and consents

Approval to vary an agreement may require consent and consultation with relevant agencies and/or interested parties. This will depend on the type of agreement and scale of the variation.

In some circumstances the Biodiversity Conservation Trust and the owners of the land can make minor variations to an agreement without any consent or consultation with other interests.