

# Appendix one – Response from agencies

## Response from Department of Planning and Environment

Department of Planning and Environment



Our ref: ED22/83

Your ref: D2213766/PA6691

Mr Ian Goodwin  
Deputy-Auditor General for New South Wales  
Audit Office of New South Wales  
mail@audit.nsw.gov.au

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Subject: Performance Audit- Biodiversity Offset Scheme

Dear Mr Goodwin

Thank you for the opportunity to consider and respond to your Performance Audit - Biodiversity Offsets Scheme.

I welcome the report's findings and recommendations. Please find attached the Department of Planning and Environment's response to each of the report's recommendations. The Department is supportive of the recommendations directed to the Department.

The NSW Biodiversity Offsets Scheme is a world leading approach to ensuring ecologically sustainable development and a key component of the Government's approach to combatting the decline of biodiversity. I appreciate the Audit Office's acknowledgement of the work undertaken to improve the scheme since it commenced in 2017.

The NSW Government is committed to continuously improving the scheme through our Integrated Improvement and Assurance Program (IIAP), independently overseen by Mr Mike Mrdak AO. In his most recent progress report to the Minister for the Environment and Heritage, Mr Mrdak noted 'strong and well-structured progress' is being made to deliver key improvements and 'the scheme is now in the strongest position it has been in since commencement'. A major achievement is the establishment of the Biodiversity Credits Supply Fund, a ground-breaking initiative which will accelerate the establishment of Biodiversity Stewardship Agreements (BSAs) to generate "in demand" biodiversity credits. In addition, we are improving the scheme by:

- making it easier for stakeholders to participate in the scheme (reducing barriers to entry for BSAs)
- further strengthening the biodiversity credit market and improving price information
- maintaining a scientifically rigorous approach to assessing biodiversity values
- ensuring confidence in the scheme through improved auditing and monitoring.

Your audit recommendations will significantly contribute to informing our evolving IIAP.

I thank the audit team for the significant work they have undertaken and their professional and collaborative approach to working with the Department. If you have any further questions, please do not hesitate to contact me.

Yours sincerely

A blue ink signature of Mick Cassel, written in a cursive style.

**Mick Cassel**  
**Secretary**

Encl: DPE response to recommendations

26 August 2022

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Department of Planning and Environment response to performance audit recommendations on the Biodiversity Offsets Scheme

Recommendation	Response	
1. By December 2022, DPE should establish governance arrangements with separate reporting lines to better oversee and manage risks related to the BCT and/or other agencies with multiple roles in the Scheme (for example as market participants and intermediaries, and as administrators of BSA sites)	Agreed in principle	<p>DPE has put in place strong and effective governance arrangements to address risks and ensure that multiple roles in the scheme are effectively managed. DPE will continue to review and, if necessary, revise these arrangements to ensure they are appropriate and effective.</p> <p>Existing governance for the scheme includes a Biodiversity Offsets Scheme Board and an Interdepartmental Reference Group. Significantly, DPE is working to engage IPART to undertake an overall biodiversity credit market monitoring role.</p> <p>A new Credits Supply Taskforce has been established within DPE with the objective of increasing supply of biodiversity credits. This includes the function for approving Biodiversity Stewardship Agreements (BSAs), previously delivered by the BCT.</p> <p>Separate reporting lines for the Taskforce have been established within DPE to the extent feasible. The Taskforce will publish its probity arrangements to ensure full transparency.</p>
2. By December 2022, DPE should collate and maintain centralised information about offset obligations and discounting for major projects (State Significant Development and Infrastructure), including documentation related to ministerial decisions	Agreed in principle	<p>DPE recognises the need to maintain centralised information on offset obligations for major projects, and is committed to doing so as soon as possible, to support monitoring and reporting of scheme performance.</p> <p>Documents detailing credit calculations under the scheme and final credit obligations imposed for major projects are recorded on DPE's Planning Portal. However, this information is contained in various documents submitted at different points of the application process.</p> <p>DPE is working towards collating this information in a central location to support analysis and reporting. While there are challenges in integrating data between the Planning Portal and Biodiversity Offsets Scheme systems which will make it difficult to meet the recommended timeframe, this will be</p>

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Recommendation	Response	
		achieved as soon as possible. Delivery timing will be identified after information and capabilities are reviewed.
3. By December 2022, DPE should evaluate the overall quality of biodiversity assessment reports (for development and stewardship sites) and implement improvement strategies, including a quality assurance process, in collaboration with the BCT.	Agreed	<p>DPE recognises high quality biodiversity assessment reports are critical to a robust scheme.</p> <p>DPE has established extensive resources to support accredited assessors in preparing reports, including a best-practice template for biodiversity development assessment reports.</p> <p>By the end of 2022, DPE will expand and strengthen oversight of accredited assessors by implementing a compliance and assurance plan, audit protocol and de-accreditation process. This will include reviewing a sample of biodiversity assessment reports to evaluate their quality.</p> <p>Responsibility for reviewing biodiversity stewardship site assessment reports has moved from the BCT to the Credits Supply Taskforce in DPE.</p> <p>Information from the DPE review of biodiversity development assessment reports will inform ongoing audits, quality assurance and improvement strategies.</p>
4. By July 2023, DPE should implement a long-term strategic plan for the Scheme that defines biodiversity goals with respect to the Act. The strategic plan should include: <ul style="list-style-type: none"> <li>clearly allocated roles between DPE and the BCT and other relevant agencies, to ensure effective Scheme oversight, delivery, and market operations</li> <li>guidance to the BCT on timeframes and priorities for acquitting its acquired offset obligations, including a method for moving through its acquittal options</li> </ul>	Agreed	<p>DPE will develop a long-term strategic plan for the scheme. Considerable work is already underway that will inform the plan, including priorities identified in the Integrated Improvement and Assurance Program (IIAP) and a monitoring, evaluation, reporting and improvement framework, which is under development. Recommendations such as those in the Audit Office report will inform the evolving IIAP.</p> <p>The work of the Credit Supply Taskforce is central to the development of a long-term strategic plan for the Scheme. For example, in proactively identifying BSA sites the Taskforce will, to the extent possible, seek to ensure that BSAs contribute to and integrate with other conservation measures to promote regional and State objectives.</p>

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Recommendation	Response	
<ul style="list-style-type: none"> <li>performance indicators for the Scheme's administration, including the BCT's activities such as the ecological monitoring of BSA sites</li> <li>an approach to measuring and publicly reporting on biodiversity outcomes from the Scheme, including its contribution to State and regional biodiversity goals.</li> </ul>		<p>DPE will support the BCT to finalise a framework to acquit offset obligations transferred to the Biodiversity Conservation Fund. The management and control of this Fund, and the range of options to acquit these obligations, is the statutory responsibility of the BCT.</p> <p>The long-term strategic plan will include clear performance indicators. As a priority, these indicators will provide objective measures of success in delivering biodiversity outcomes.</p> <p>The strategic plan will articulate the role of the Scheme in meeting State and regional biodiversity goals and, in particular, how it relates to and integrates with other conservation policies and measures.</p>
5. By July 2023, DPE should enhance its public credit register to include unique credit identifiers, ownership and transaction history, and information about each offset obligation and rules against which each credit was retired	Agreed in principle	<p>DPE recognises the need for greater transparency of credit lifecycles and how offset obligations are met. DPE is working to improve the public registers to increase the accessibility and quality of information available.</p> <p>DPE can trace the lifecycle of credit holdings in the current system and is examining options to improve transparency. Implementation of unique credit identifiers is unlikely to be possible in the current systems. Accordingly, DPE will investigate the feasibility of creating unique credit identifiers if a new credit management system is considered, noting this would require significant investment.</p> <p>DPE recognises that publishing information in a central location on offset obligations and how they are met would increase transparency in the scheme. Development of new registers would be subject to a funding decision by government.</p>
6. By July 2023, DPE should implement a resourced plan to improve the operation of the biodiversity credit market, including by improving the transparency of market information and by supporting adequate	Agreed	<p>DPE is undertaking significant work to improve the operation of the credit market, which will be brought together under a single plan.</p> <p>A \$106 million Biodiversity Credits Supply Fund has been established to improve functioning of the biodiversity credit market. This is a ground-</p>

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Recommendation	Response	
<p>credit supply. The plan should allocate roles and timeframes for:</p> <ul style="list-style-type: none"> <li>publishing enhanced information about current and expected credit supply and demand, and credit prices</li> <li>proactively identifying potential Biodiversity Stewardship Agreement (BSA) sites</li> <li>reducing barriers to landholders establishing BSA sites, and accelerating timeframes for the establishment of BSA sites on private land.</li> </ul>		<p>breaking initiative designed to significantly enhance the supply and integrity of credits, including by accelerating the establishment of BSAs. A Taskforce within DPE will manage the Fund. The Taskforce will proactively identify and support landholders to enter BSAs and significantly increase supply of credit types that are in demand. The Taskforce is implementing a range of specific measures to make it easier for landholders to enter into BSAs, including simplifying the BSA template and adopting a streamlined application and approval process. The BSA application fee will be waived until 30 June 2023. In combination, these measures will significantly reduce barriers to entry by reducing the cost and time involved in entering into a BSA.</p> <p>The Taskforce is seeking to ensure that its proactive identification of BSA sites will, to the extent possible, contribute to and integrate with other conservation measures to promote regional and State objectives.</p> <p>DPE has published market information including a Biodiversity Credits Market Sales Dashboard, credit pricing guidance, and an Offset Trading Group look-up tool for identifying like-for-like options. DPE will continue to improve market information and tools.</p> <p>Further work to address other barriers to market participation will be informed by customer journey mapping, subject to resourcing and approval.</p>
7. By July 2023, the DPE and the Biodiversity Conservation Trust should implement a decision-making and intervention framework to ensure adequate initial and ongoing funding for the long-term management of new and existing BSA sites	Agreed	<p>DPE and the BCT are developing a risk-based framework to support the financial sustainability of the Biodiversity Stewardships Payments Fund (BSPF), informed by expert advice from EY Port Jackson Partners.</p> <p>DPE has adopted a transparent formula for calculating the Total Fund Deposit (TFD) amount for new BSAs that incorporates a risk tolerance threshold set by the Minister. The TFD is paid into the BSPF on the sale of credits to fund the long-term management of the site.</p> <p>The adequacy of the BSPF is managed through the BCT's investment strategies and the adequacy mechanisms established by the <i>Biodiversity Conservation Act 2016</i>.</p>

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Recommendation	Response	
8. By July 2023, the DPE and the Biodiversity Conservation Trust should review the status of passive BSA sites and implement a plan to support biodiversity on sites that are at risk of not entering active management	Agreed	DPE recognises moving passive BSA sites into active management would support the achievement of long-term biodiversity gains. The BCT has responsibility for reviewing the status of BSA sites. DPE will work with the BCT to develop options to support sites identified by the BCT as being at risk of not entering active management.
9. By July 2023, the DPE and the Biodiversity Conservation Trust should establish protocols for supporting BSAs where biodiversity outcomes are not on-track due to events that cannot be reasonably controlled or planned for	Agreed	DPE will work with the dedicated compliance team the BCT is establishing to ensure protocols are in place to support BSAs where biodiversity outcomes are not on track.
10. By July 2023, the DPE and the Biodiversity Conservation Trust should implement plans to ensure ecological monitoring occurs on all BSA sites.	Agreed	Ecological monitoring requirements were included in management plans of new BSAs from March 2021. DPE will support, as needed, the work of the BCT to refine its ecological monitoring to ensure the program is strategic and addresses any gaps in monitoring older sites.
11. By July 2023, the Biodiversity Conservation Trust should report annually on the estimated number and type of offset obligations that can/cannot be met on a like-for-like basis, and the estimated costs for acquitting these within 12 months.	Agreed. Please refer to the BCT response	

# Response from Biodiversity Conservation Trust



**Biodiversity  
Conservation  
Trust**

Our ref: DOC22/751084

Mr Ian Goodwin  
Deputy Auditor-General  
Level 15, 1 Margaret Street  
SYDNEY NSW 2000

Dear Mr Goodwin

**Subject: Performance Audit – Biodiversity Offsets Scheme**

Thank you for your letter dated 28 July 2022 inviting our response to your performance audit of the Biodiversity Offsets Scheme.

The Biodiversity Conservation Trust (BCT) Board has noted the findings of the report and supports the recommendations of the audit. Our response to the recommendations that apply to the BCT is in the enclosed table.

I note that the report recognises that the Department of Planning and Environment (DPE) has recently announced significant changes to the management of aspects of the Biodiversity Offsets Scheme. The BCT is working closely with DPE to ensure a smooth transition to the new arrangements, which moves responsibility for the establishment and variation of Biodiversity Stewardship Agreements (BSAs) from the BCT to the new Biodiversity Credits Supply Taskforce.

I would also like to highlight that the BCT Board has recently approved additional resources for managing compliance across biodiversity stewardship and private land conservation agreements. The BCT is also continuing to improve and refine its ecological monitoring program.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Niall Blair'.

Niall Blair  
**Chair**

25 August 2022

Encl: Response to recommendations

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<b>Recommendations directed jointly to the Department of Planning and Environment and BCT</b>	<b>Response</b>
7. By July 2023, DPE and BCT should implement a decision-making and intervention framework to ensure adequate initial and ongoing funding for the long-term management of new and existing BSA sites	Supported. The BCT will seek to continue working closely with DPE to implement the recommendations from Port Jackson Partners to improve the management of the Biodiversity Stewardships Payment Fund.
8. By July 2023, DPE and BCT should review the status of passive BSA sites and implement a plan to support biodiversity on sites that are at risk of not entering active management	Supported. The BCT has already commenced a desktop review of passive BSA sites and will seek to work with DPE to develop options to support sites that are at risk of not entering active management.
9. By July 2023, DPE and BCT should establish protocols for supporting BSAs where biodiversity outcomes are not on-track due to events that cannot be reasonably controlled or planned for	Supported. The BCT is in the process of establishing a dedicated compliance team that will seek to work with DPE to ensure appropriate procedures are in place to support BSA sites where biodiversity outcomes are not on track.
10. By July 2023, DPE and BCT should implement plans to ensure ecological monitoring occurs on all BSA sites	Supported. The BCT is currently refining its ecological monitoring program to address the gap in monitoring for older sites which, in consultation with DPE, will consider cost and resourcing impacts on both the BCT and landholders.
<b>Recommendations directed to the BCT</b>	<b>Response</b>
11. By July 2023, the BCT should report annually on the estimated number and type of offset obligations that can/cannot be met on a like-for-like basis, and the estimated costs for acquitting these within 12 months.	Supported. The BCT currently reports on the expected costs of all outstanding obligations held in the BCF in its annual report. A report highlighting credit types that are likely to be difficult to offset on a like-for-like basis will be provided to the Board annually.