

This guideline explains the approach taken by Transport for NSW (Transport) when making offers to purchase credits and to negotiate credit value as part of the NSW Biodiversity Offset Scheme.

This document is applicable until withdrawn or replaced by Transport and does not constitute legal advice. Transport encourages all property owners considering participation in the Biodiversity Offset Scheme to obtain their own legal and financial advice before proceeding.

Transport seeks to avoid, minimise and mitigate the impacts of its infrastructure on biodiversity during the development and design of its projects. Where impacts cannot be avoided or mitigated, Transport looks to offset these impacts using the NSW Biodiversity Offset Scheme administered by the Biodiversity Conservation Trust (BCT) and the Environment, Energy and Science Division (EES) of the NSW Department of Planning, Industry and Environment.

This approach is consistent with NSW and Commonwealth planning and environmental laws.

The Biodiversity Offset Scheme is a market based scheme that provides:

- A consistent biodiversity assessment process for development
- A rigorous and credible offsetting scheme
- An opportunity for rural property owners to generate an income by managing land for conservation.

Under the scheme, property owners enter a Biodiversity Stewardship Agreement (BSA) with the NSW Minister for the Environment and can then sell the biodiversity credits generated by their properties. More information about this scheme can be found at <https://www.bct.nsw.gov.au/cards/apply-agreement-generate-credits>



Frequently Asked Questions

How does Transport find potential sellers?

Transport finds potential sellers of biodiversity credits by:

- reviewing the Biodiversity Offset and Agreement Management System (BOAMS) on the BCT website
- seeking expressions of interest from property owners who don't currently have a BSA applying on their land, but may be interested in entering one. This is done in a variety of ways including:
 - posting our requirements on BOAMs
 - placing advertisements in local newspapers seeking expressions of interest
 - contacting property owners directly.

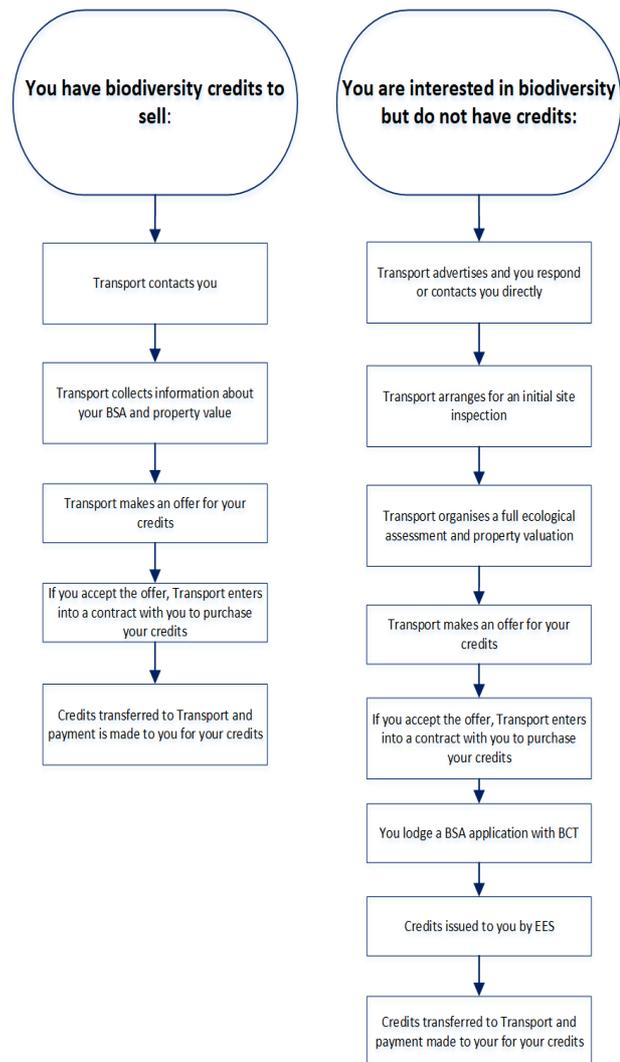
What happens if I am contacted about buying my issued credits?

Depending on whether there have been recent sales of your credits, Transport may ask you:

- for a copy of the BSA and credit pricing spreadsheet prepared on your behalf by an assessor accredited by EES
- for any other relevant information, including quotes and land valuations used to estimate credit value
- for permission to access your property for valuation purposes.

As part of the process we will:

- hold the information on your property on a strictly confidential basis
- appoint a primary contact officer to communicate with you
- carry out investigations regarding the value of the credits.



Once investigations are complete and credit value is assessed, we will either make an offer to purchase your credits within a reasonable timeframe (based on our approach to credit pricing) or advise you that at this time we will not be pursuing the credits and will return any confidential information to you.

What happens if I respond to an expression of interest?

With your agreement, Transport will:

- carry out an initial inspection of your land to confirm that the biodiversity values are potentially present
- help you access the information resources available that explain the benefits and responsibilities of property owners entering BSAs

- arrange a primary point of contact to handle communications with you
- arrange and pay for any necessary detailed ecological and property assessments of your land, the results of which will be the property of Transport
- make an offer to purchase credits within a reasonable timeframe based on our approach to credit pricing or advise you that your credits are not required
- assist you lodge the Agreement with the BCT.

You will be expected to:

- familiarise yourself with the obligations that come with managing a BSA
- assist the accredited assessor and an appropriately qualified land valuer access your property to conduct the necessary assessments. In some cases, this may involve entering a formal agreement with us
- review the BSA documentation within a reasonable timeframe, noting that once the agreement is lodged with the BCT and the credits sold, you will be responsible for implementing the management actions contained in the BSA
- review the offer from Transport
- should you agree to the offer, enter a contract to sell the credits to use for an agreed price
- lodge the BSA with BCT and transfer the credits to Transport once issued
- treat the ecological and property assessments prepared on your behalf as strictly confidential.

How is the value of biodiversity credits determined?

The value of the biodiversity credits is based on two components:

- **Part A** – the amount of money required to fund ongoing biodiversity management of the land by the property owner. The **Part A** component is paid to the Biodiversity Stewardship Payments Fund administered by the EES/BCT. Part A payments are determined by assessors accredited by EES in consultation with property owners.
- **Part B** – an upfront payment to the property owner to cover foregone development opportunities, administrative fees and a profit or risk margin. **Part B** payments are negotiated between the seller and buyer of credits.

How does Transport determine the Part B costs?

Transport is committed to offering property owners a fair price for credits and has adopted a consistent and transparent approach to determining Part B costs.

In addition to examining relevant biodiversity credit sales and asking prices, in determining an offer we may also consider factors such as:

- the **market value of the land** that is proposed to be the subject of a BSA – this is known as the ‘before value of land’
- the **opportunity costs** of entering the BSA given any likely changes in the value of land as a result of entering the BSA given any likely changes in the value of the land as a result of entering the Agreement – this is known as the ‘after value of the land’
- any **establishment costs** that would be incurred in creating the BSA. This would include the cost of the accredited Biodiversity assessor (unless Transport has already incurred this cost) and BCT fees to lodge the agreement application.

- a **profit and risk factor** which represents a reasonable incentive to the property owner to enter the agreement given regard to the particular circumstances of the agreement, the risks involved in entering the agreement and the existence of competing biodiversity stewardship opportunities which may be in competition with the agreement.

These four factors come together to inform the assessment process to determine an appropriate Part B component, which forms part of the total value of all credits generated from the BSA. The value is then divided by the number of biodiversity credits on the property to determine a price per credit.

What if I disagree with the offer?

Transport is committed to offering property owners a fair price for credits. If you do not agree with our offer, we would be happy to meet with you to discuss how we determined our offer price and your expectations.

Following this meeting, we will consider whether there is any justification for putting forward a revised offer and, if so, provide a revised offer to you.

If we cannot reach an agreement the following options are available:

- Transport and the credit owner can jointly choose to seek assistance from the Australian Property Institute (API). The API would nominate an appropriately qualified valuer who would act as an independent expert in determining the Part B component. The selected valuer would act as an independent expert and would be commissioned to carry out an assessment of the value of the required credits. This independent review process is subject to the following conditions:
 - the credit owner and Transport would each be responsible for the payment of 50% of the expert's fee

- the credit owner or Transport may make written submissions to the expert valuer within the first seven days after the expert valuer is instructed
- any existing offer by Transport as to the credit price is deemed to be withdrawn
- the expert's decision will be binding on both parties if the credit owner wishes to proceed
- no further valuations will be obtained and the offer to acquire at the value determined by the expert will remain open for three months or such other time as may be determined by Transport on a case by case basis, after which time the offer will lapse.
- We may withdraw the offer and retain intellectual property rights for all assessment collected for the BSA and paid for by Transport.

When do I receive payment for my biodiversity credits?

Property owners receive an upfront payment when their credits are transferred to Transport and will receive ongoing annual payments to manage their property for conservation from the Biodiversity Stewardship Payments Fund managed by EES.

Further information

If you would like to discuss any aspect of this Factsheet please contact Transport's Senior Environment Specialist (Biodiversity) on 0419 406324.

Murray's Beach offset site, Central Coast, NSW

