

NSW Office of Environment and Heritage

BAM Assessor Update Number 11

1. Topics Covered:

1. Update on the Assessment Bilateral Agreement
2. BAM-C update
3. Guidance on seeking concurrence for a reduced offset obligation
4. Coming up

1. Update on the Assessment Bilateral Agreement

An amending agreement to update the assessment bilateral relating to environmental assessment that the NSW Government has with the Australian Government under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) has been released for public consultation until 21 February.

The amended agreement is available on the Department of Environment and Energy website (scroll to the bottom of the page): <http://www.environment.gov.au/protection/environment-assessments/bilateral-agreements/nsw> . Public submissions can be made through the DOEE website. Further information on the assessment bilateral agreement is also available on the [BOS website](#).

Through the revised agreement the Australian Government is seeking to endorse the NSW Biodiversity Offset Scheme. OEH and DPE are working with the Australian Government to identify the best way to formally align the NSW Scheme to the EPBC Act environmental offsets policy. As part of this, NSW has committed to making minor amendments to the NSW BOS offset rules to align them to the Australian Government requirements. The NSW BOS has requirements for retiring like-for-like credits or funding conservation actions that directly benefit the species or community impacted. These meet the Australian Government's requirements. The NSW BOS also allows for variation rules to be used after reasonable steps have been taken to source like-for-like credits. NSW is considering amendments to the Biodiversity Conservation Regulation that would prevent the use of the variation rules for offsets required for EPBC Act purposes for controlled actions. The variation rules would remain available to meet offset requirements for other NSW matters for controlled actions.

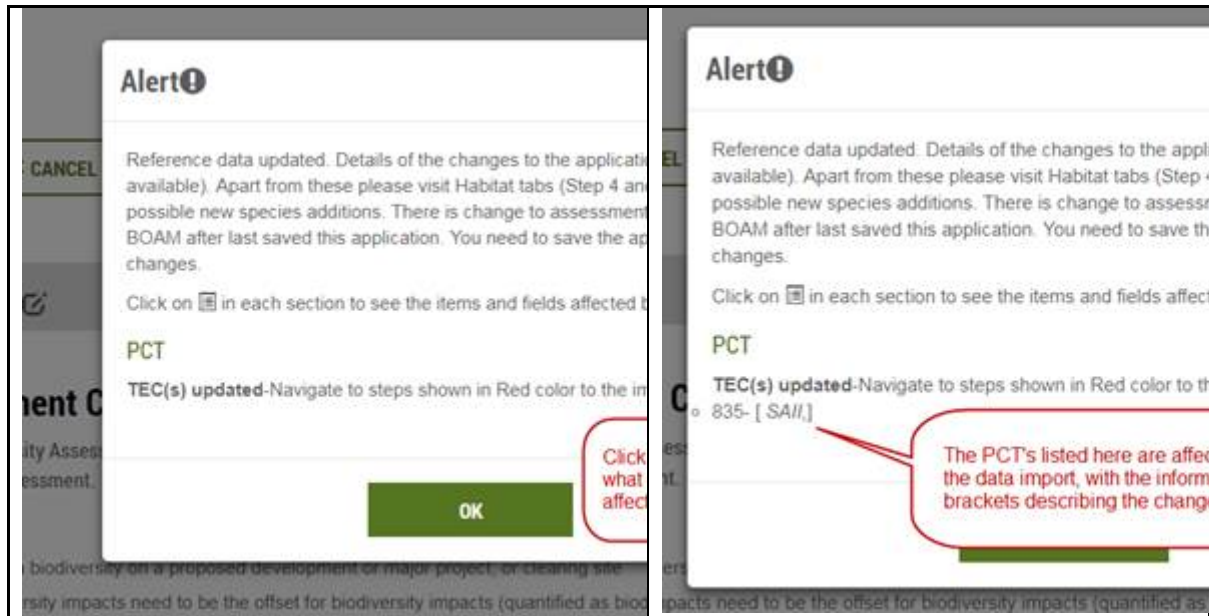
The current bilateral agreement remains operational and will continue to be used for projects that are being assessed under the *Biodiversity Conservation Act 2016* transitional arrangements. Further, the Commonwealth is continuing to accredit use of the BAM for assessment of impacts on EPBC Act listed entities on a project-by-project basis.

2. BAM-C update

A number of BAM assessors had identified that TECs in the BAM-C were incorrectly appearing as a candidate SAIL in the BAM-C for development proposals. These TEC's are not identified as a candidate SAIL in the SAIL guidance document.

The Ecosystem Assessment team has investigated the issue, which was caused by a data issue in the one of the fields in the Threatened Biodiversity Data Collection (TBDC). This meant that in BAM-C, some TECs would incorrectly display as requiring assessment for a SAIL, while other TECs were not displaying as SAIL in the BAM-C when they should be.

These issues have now been resolved through data cleaning of the field in Bionet, and then importing the data from Bionet into BAM-C for the affected TEC's. This data import was restricted to only include the TEC's listed below. Please note that when you open an existing proposal in BAM-C, a popup will appear in BAM-C notifying the user of a change to the reference data. Clicking on the icon will also allow you to see which entities in the proposal are affected by the change to the reference data.



New TEC's that will trigger the SAI flag in BAM-C

- Agnes Banks Woodland in the Sydney Basin Bioregion
- Cooks River/Castlereagh Ironbark Forest in the Sydney Basin Bioregion
- Warkworth Sands Woodland in the Sydney Basin Bioregion

TEC's that will no longer trigger the SAI flag in the BAM-C

- Bangalay Sand Forest of the Sydney Basin and South East Corner bioregions
- Ben Halls Gap National Park Sphagnum Moss Cool Temperate Rainforest
- Cadellia pentastylis (Ooline) community in the Nandewar and Brigalow Belt South Bioregions
- Carbeen Open Forest Community in the Darling Riverine Plains and Brigalow Belt South Bioregions
- Carex Sedgeland of the New England Tableland, Nandewar, Brigalow Belt South and NSW North Coast Bioregions
- Castlereagh Swamp Woodland Community
- Coastal Cypress Pine Forest in the New South Wales North Coast Bioregion
- Coolibah-Black Box Woodland in the Darling Riverine Plains, Brigalow Belt South, Cobar Penepplain and Mulga Lands Bioregions
- Freshwater Wetlands on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions
- Halosarcia lylei low open-shrubland in the Murray Darling Depression Bioregion
- Howell Shrublands in the New England Tableland and Nandewar Bioregions
- Hunter Lowland Redgum Forest in the Sydney Basin and New South Wales North Coast Bioregions
- Hunter Valley Footslopes Slaty Gum Woodland in the Sydney Basin Bioregion
- Illawarra Lowlands Grassy Woodland in the Sydney Basin Bioregion

- Illawarra Subtropical Rainforest in the Sydney Basin Bioregion
- Inland Grey Box Woodland in the Riverina, NSW South Western Slopes, Cobar Peneplain, Nandewar and Brigalow Belt South Bioregions
- Kurnell Dune Forest in the Sutherland Shire and City of Rockdale
- Kurri Sand Swamp Woodland in the Sydney Basin Bioregion
- Littoral Rainforest in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions
- Lower Hunter Spotted Gum—Ironbark Forest in the Sydney Basin Bioregion
- Lower Hunter Valley Dry Rainforest in the Sydney Basin and NSW North Coast Bioregions
- Lowland Grassy Woodland in the South East Corner Bioregion
- Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions
- Lowland Rainforest on Floodplain in the New South Wales North Coast Bioregion
- McKies Stringybark/Blackbutt Open Forest in the Nandewar and New England Tableland Bioregions
- Melaleuca armillaris Tall Shrubland in the Sydney Basin Bioregion
- Milton Ulladulla Subtropical Rainforest in the Sydney Basin Bioregion
- Moist Shale Woodland in the Sydney Basin Bioregion
- Montane Peatlands and Swamps of the New England Tableland, NSW North Coast, Sydney Basin, South East Corner, South Eastern Highlands and Australian Alps bioregions
- Mount Gibraltar Forest in the Sydney Basin Bioregion
- Myall Woodland in the Darling Riverine Plains, Brigalow Belt South, Cobar Peneplain, Murray-Darling Depression, Riverina and NSW South Western Slopes bioregions
- Native Vegetation on Cracking Clay Soils of the Liverpool Plains
- Newnes Plateau Shrub Swamp in the Sydney Basin Bioregion
- O'Hares Creek Shale Forest
- Ribbon Gum—Mountain Gum—Snow Gum Grassy Forest/Woodland of the New England Tableland Bioregion
- River-Flat Eucalypt Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions
- Robertson Rainforest in the Sydney Basin Bioregion
- Sandhill Pine Woodland in the Riverina, Murray-Darling Depression and NSW South Western Slopes bioregions
- Semi-evergreen Vine Thicket in the Brigalow Belt South and Nandewar Bioregions
- Shale Gravel Transition Forest in the Sydney Basin Bioregion
- Southern Sydney sheltered forest on transitional sandstone soils in the Sydney Basin Bioregion
- Subtropical Coastal Floodplain Forest of the New South Wales North Coast Bioregion
- Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions
- Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions
- Sydney Freshwater Wetlands in the Sydney Basin Bioregion
- Tablelands Snow Gum, Black Sallee, Candlebark and Ribbon Gum Grassy Woodland in the South Eastern Highlands, Sydney Basin, South East Corner and NSW South Western Slopes Bioregions
- Themeda grassland on seacliffs and coastal headlands in the NSW North Coast, Sydney Basin and South East Corner Bioregions
- Upland Wetlands of the Drainage Divide of the New England Tableland Bioregion
- White Gum Moist Forest in the NSW North Coast Bioregion

3. Guidance on seeking concurrence for a reduced offset obligation

If a consent authority decides to approve a development under Part 4 of the Environmental Planning and Assessment Act 1979 (not including major projects), with a lower credit obligation than described in a biodiversity development assessment report (as required by the BAM), concurrence is required from OEH. Guidance on seeking concurrence for a reduced credit obligation has now been published on the local government page of the BOS website:

<https://www.environment.nsw.gov.au/biodiversity/reduced-credit-obligation.htm>

The guidance sets out the factors that OEH will consider when deciding whether to grant concurrence, as well as the information that a proponent must provide a when submitting a development application that requests a reduced credit obligation.

Concurrence decisions will be made based on the merits of each individual development. Reducing a credit obligation means a net loss of biodiversity across New South Wales. Routine discounting by consent authorities undermines the purpose of the Biodiversity Conservation Act 2016 and the integrity of the Biodiversity Offset Scheme. For this reason, routine discounting by a consent authority will not be supported.

4. Coming up

In the next assessor update, OEH will release information to help market participants in the BioBanking and Biodiversity Offset Schemes. This includes:

- Guidance on transitioning from BioBanking to the Biodiversity Offsets Scheme
- A tool that shows BioBanking credit prices (Spot Price Index)
- New credit registers for the Biodiversity Offsets Scheme