



DEPARTMENT OF PLANNING, INDUSTRY & ENVIRONMENT

BOS Support for Assessors & Local Government

WEBINAR 11

Implications of the Commonwealth's endorsement of the NSW Biodiversity Offsets Scheme

Wednesday 10th June, 2:00pm - 3:00pm



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Acronym list

EPBC Act	Environment Protection and Biodiversity Conservation Act 1999 (Cth)
BC Act	Biodiversity Conservation Act 2016 (NSW)
BC Regulation	Biodiversity Conservation Regulation 2017 (NSW)
EP&A Act	Environmental Planning and Assessment Act 1979 (NSW)
BOS	Biodiversity Offsets Scheme
BAM	Biodiversity Assessment Method
TEC	Threatened Ecological Community
EEC	Endangered Ecological Community
CEEC	Critically Endangered Ecological Community
PCT	Plant Community Type
DAWE	Australian Government Department of Agriculture, Water and the Environment
DPIE	NSW Department of Planning, Industry and Environment

What actions require Commonwealth approval?

An action that:

- Is likely to have a significant impact on a matter of national environmental significance
- Is determined by the Commonwealth to be a controlled action requiring assessment and approval under the EPBC Act

The BOS only addresses threatened species and ecological communities (EPBC Act s 18, 18A) that are also listed under the BC Act





NSW BOS is endorsed

Department of Agriculture, Water and the Environment is satisfied that the NSW Biodiversity Offsets Scheme is consistent with the EPBC Act Environmental Offsets Policy and has formally endorsed the scheme through the EPBC Condition-setting Policy.



March 2020

Appendix A: List of endorsed state and territory policies

- *New South Wales Biodiversity Offsets Scheme*, published by the Department of Planning, Industry and Environment for the NSW Government in August 2017
- Rules established under the *Biodiversity Conservation Regulation 2017 (NSW)*
- *NSW Biodiversity Offsets Policy for Major Projects*, published by the Office of Environment and Heritage for the NSW Government in September 2014
- *Fisheries NSW Policy and Guidelines for Fish Habitat Conservation and Management (2013 update)*, published by the Department of Trade and Investment, Regional Infrastructure and Services for the NSW Government in June 2013
- Rules established under section 127B of the *Threatened Species Conservation Act 1995 (NSW)*



Photo: South Coast © Andy Hoaney



Streamlined
Commonwealth
and NSW
biodiversity
assessment for
all NSW projects

Part 4 (local development),
Part 5 activities, Native
Vegetation Panel approval



BOS endorsed under the
EPBC Act Condition-setting
Policy

Major projects (SSD and
SSI - NSW Government is
the consent authority)



Assessment Bilateral
Agreement specifies
use of the BOS



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How was endorsement achieved?

The Commonwealth requires offsets to directly benefit the impacted entity

- Biodiversity Assessment Method (where it meets EPBC Act requirements) ✓
- BC Act offset rules (where like-for-like achieved)
 - Like-for-like retirement of credits ✓
 - Conservation actions ✓
 - Mine site ecological rehabilitation ✓
 - Payment in the Biodiversity Conservation Fund ✓
- Use of the variation rules (by proponent or BCT) ✗

Amendment to NSW
BC Regulation:
• Clause 6.6A

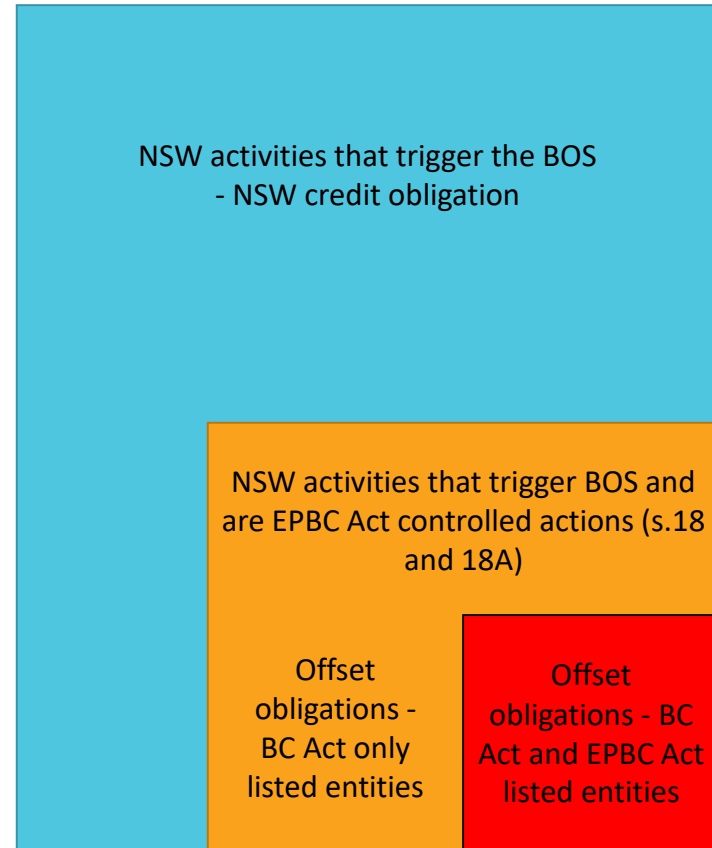


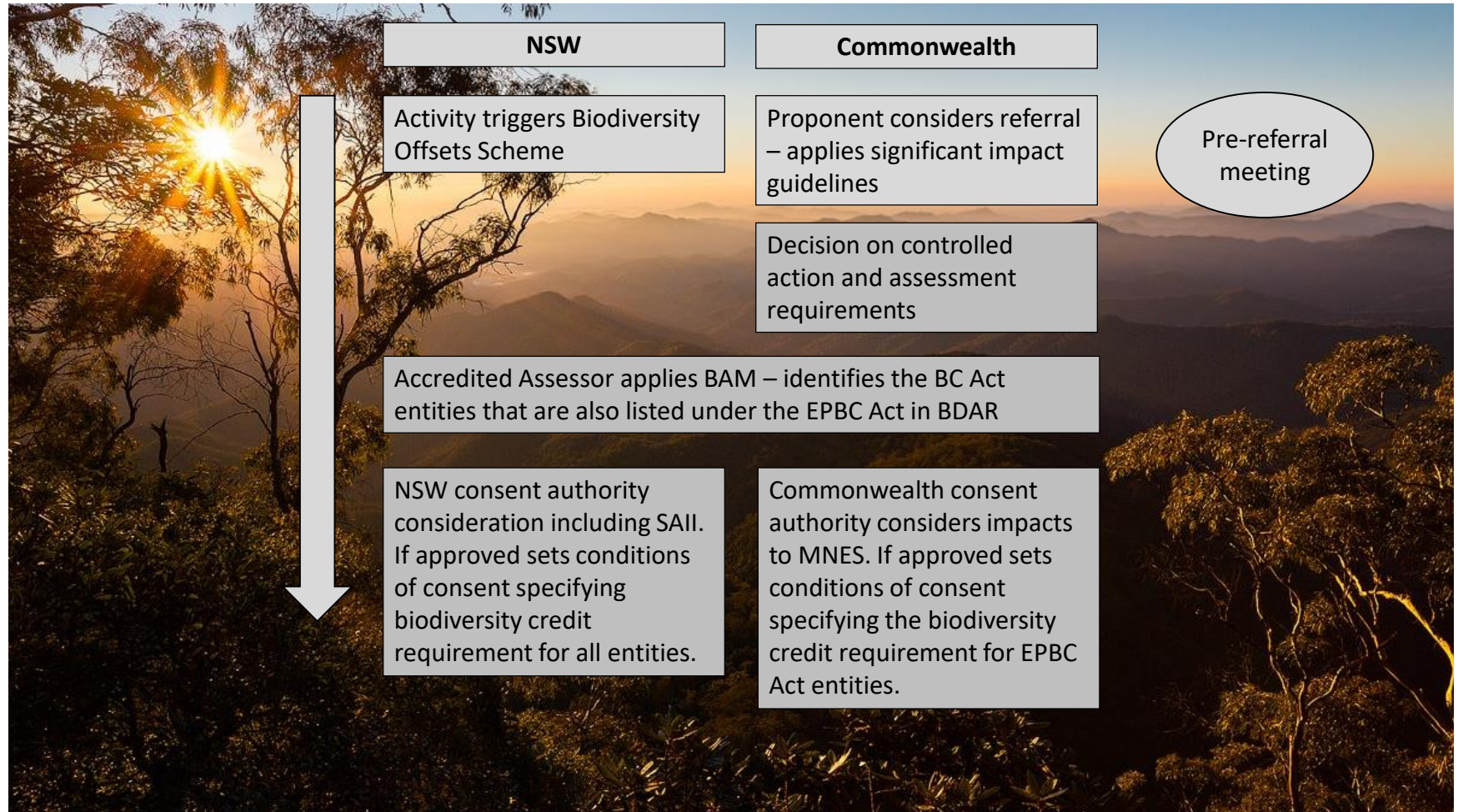
Biodiversity Conservation Act 2017 - Clause 6.6A

Limitation of variation rules in relation to controlled actions under Environment Protection and Biodiversity Conservation Act 1999 (Cth) (sections 6.4, 6.6 and 6.31)



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What happens if an entity is listed in the EPBC Act but not the BC Act?

- Cannot be assessed using the BAM (just yet)
- Commonwealth will set the assessment and offsetting requirements
- NSW consent authority cannot condition and it does not trigger the BOS if it is the only impact
- Help is available – contact DAWE
- NSW and Commonwealth are committed to continued alignment and streamlining while maintaining strong biodiversity outcomes





Inclusion of EPBC Act only listed entities in the BOS

- A number species and ecological communities are listed in the EPBC Act but not the BC Act (or are described differently)
- Intention is to include all of these entities in the BAM and then the BOS more broadly
- Complete species profiles in the Threatened Biodiversity Data Collection
- BAM-Calculator data import
- Ecological communities on a case-by-case basis
- Further legal and technical issues to resolve

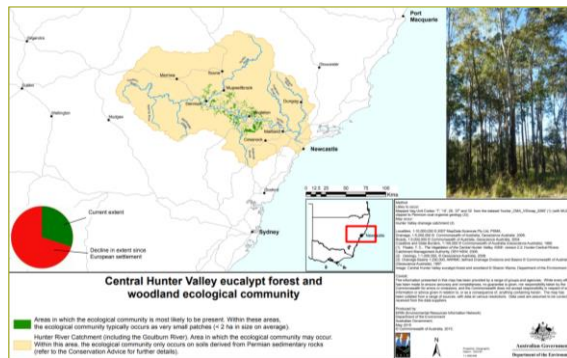


Photo credit: ANBG

PCT associations with EPBC Act listings

- Several PCTs may be associated with a nationally listed EEC and CEEC
- If it is clear that those PCTs are relevant - assessment and offset calculation should proceed on that basis
- Commonwealth have engaged a consultant to produce guidance on alignment of PCTs
- If you have any questions – help is available, please contact DAWE





Accredited Assessors can support streamlining of assessments and approvals

- Education proponents on EPBC Act responsibilities
 - Helping to identify MNES
- Preparing assessments of significance
 - Pre-referral meetings
- Aligning timing of applications



Local Councils can support the streamlining of assessments and approvals

- Educate applicants on EPBC Act responsibilities
- Advising on restriction on variation rules when issuing conditions
- Advising on potential need to meet full offset requirement if discount requested



Q&A

This session will not be included in the webinar recording.

Written questions and answers will be attached to the online webinar recording.

Questions asked during these webinars also contribute to the development of the [Assessor Q&A](#) page, future webinars and other Biodiversity Offsets Scheme supporting resources.

John Spencer/DPIE



Thankyou for your participation

Webinar recordings will be available to view online on the [BOS Support webinars](#) page.

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