

# Selling biodiversity credits to Roads and Maritime Services

Roads and Maritime Services | November 2017

This guideline explains the approach taken by Roads and Maritime Services when making offers to purchase credits and to negotiate credit value as part of the NSW Office of Environment and Heritage (OEH) Biodiversity Offset Scheme.

This document is applicable until withdrawn or replaced by Roads and Maritime and does not constitute legal advice.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

Roads and Maritime seeks to avoid, minimise and mitigate the impacts of roads and other infrastructure on biodiversity during the development and design of its projects. Where impacts cannot be avoided or mitigated, Roads and Maritime looks to offset these impacts using the NSW Biodiversity Offset Scheme administered by OEH and the Biodiversity Conservation Trust (BCT).

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 income by managing land for conservation.

Under this scheme, property owners enter a Biodiversity Stewardship Agreement with the NSW Minister for the Environment and can then sell the biodiversity credits generated by their properties.

More information about this scheme including details on how to register to participate can be found at <http://www.environment.nsw.gov.au>.



# Frequently Asked Questions

## How does Roads and Maritime find potential sellers?

### Roads and Maritime finds potential sellers of Biodiversity credits by:

1. reviewing the 'Biodiversity Offsets and Agreement Management System (BOAMS)' on the OEH/BCT website. This system lists all property owners that have entered a Biodiversity Stewardship Agreement and have 'issued' credits that are ready to sell.
2. seeking expressions of interest from property owners who don't currently have a Biodiversity Stewardship Agreement applying to 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?

### Roads and Maritime will ask you:

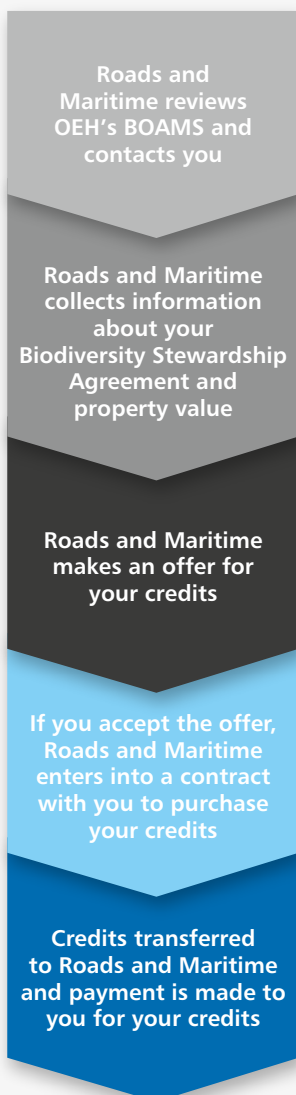
- for a copy of the Biodiversity Stewardship Agreement and credit pricing spreadsheet prepared on your behalf by an assessor accredited by OEH
- for any other relevant information, including quotes and land valuations used to estimate credit value
- for permission to access your property for valuation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

### As part of the process we will:

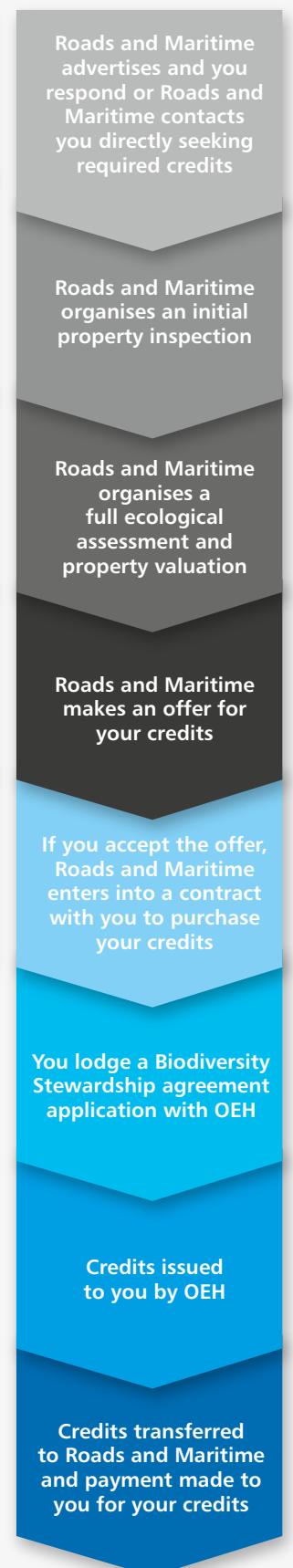
- hold the information on your property on a strictly confidential basis
- appoint a primary contact officer to communicate with you
- carry out investigations regarding the value of the credits and the value of the land that is the subject of the Biodiversity Stewardship Agreement.

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.

### You have Biodiversity credits to sell:



### You are interested in Biodiversity but do not have credits:



## What happens if I respond to an expression of interest?

### With your agreement, Roads and Maritime 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 Biodiversity Stewardship Agreements
- 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 Roads and Maritime
- 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 to lodge the agreement with OEH/BCT.

### You will be expected to:

- familiarise yourself with the obligations that come with managing a Biodiversity Stewardship site
- assist the accredited assessor and land valuer access your property to conduct the necessary assessments. In some cases, this may require entering a formal agreement with us
- review the Biodiversity Stewardship Agreement documentation within a reasonable timeframe, noting that once the agreement is lodged with OEH and the credits sold, you will be responsible for implementing the management actions contained in the Biodiversity Stewardship Agreement
- review the offer from Roads and Maritime
- should you agree to the offer, enter a contract to sell the credits to us for an agreed price
- lodge the Biodiversity Stewardship Agreement with OEH/BCT and transfer credits to Roads and Maritime 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 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 money paid to the Biodiversity Stewardship Payments Fund administered by OEH/BCT. **Part A** payments are determined by assessors accredited by OEH in consultation with property owners.

- **Part B** – an upfront payment to the property owner to cover foregone development opportunities, administrative fees and a profit and risk margin. **Part B** payments are negotiated between the seller and buyer of credits.

## How does Roads and Maritime determine the Part B costs?

Roads and Maritime 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 consider factors such as:

- establishment of the **market value of the land** that is proposed to be the subject of a Biodiversity Stewardship Agreement – this is known as the ‘before value of the land’
- identification of the **opportunity cost** of entering the Biodiversity Stewardship Agreement given any likely changes in the value of the land as a result of entering the Biodiversity Stewardship Agreement – this is known as the ‘after value of the land’
- identification of any **establishment costs** that would be incurred in creating the Biodiversity Stewardship Agreement. This would include the cost of the accredited Biodiversity assessor (unless Roads and Maritime has already incurred this cost) and OEH fees to lodge the agreement
- identification of a **profit and risk factor** which represents a reasonable incentive to the property owner to enter the agreement giving 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 Biodiversity Stewardship Agreement. This 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?

Roads and Maritime 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 the 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:

- Roads and Maritime and the credit owner can jointly choose to seek assistance from the Australian Property Institute (API). The API would nominate an expert 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 Roads and Maritime would each be responsible for the payment of 50% of the expert's fee
  - the credit owner or Roads and Maritime may make written submissions to the expert valuer within the first seven days after the expert valuer is instructed
  - any existing offer by Roads and Maritime 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 Roads and Maritime 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 information collected for the Biodiversity Stewardship Agreement.

## When do I receive payment for my Biodiversity credits?

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



### Further information

If you would like to discuss any aspect of the Guideline please contact Roads and Maritime's Senior Environmental Specialist (Biodiversity) on **(02) 8843 3052**.