



Five-year review of the Biodiversity Assessment Method

Findings and recommendations of the review

Department of Climate Change,
Energy, the Environment and Water



Acknowledgement of Country

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We pay our respects to Elders past, present and emerging.

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1. Introduction

The Biodiversity Assessment Method (BAM) is a critical component of the Biodiversity Offsets Scheme. It sets out how an accredited person assesses changes in biodiversity values from development and clearing activities, as well as from management actions at stewardship sites (DPIE 2020).

The *Biodiversity Conservation Act 2016* (BC Act) requires the BAM to be reviewed 5 years after its establishment. It was reviewed in 2018, with a focus on improvements to usability, leading to the release of BAM 2020. The 5-year review provides an opportunity to use data, information and experiences collected since 2017 to highlight the aspects of the method that work well and identify improvements to streamline implementation and support operation. Overall, this review finds that the BAM has successfully met statutory requirements to assess biodiversity values to a standard of ‘no net loss’. The NSW Government is committed to ensuring the BAM continues to be scientifically robust and practical to apply.

The recommendations from the review take into account the issues raised in stakeholder submissionsⁱ, input from government experts and general feedback received from various channels over the last 5 years of operation.

An independent panel completed a statutory review of the BC Act, and a final report was tabled in Parliament in August 2023 (Parliament of New South Wales 2023). The Government is considering the recommendations. Changes required to the BAM resulting from reforms to legislation will be considered in parallel with the recommendations in this report.

1.1 The BAM is meeting its intended purpose

The BAM is established by the Minister for the Environment under section 6.7 of the BC Act. When it was established, it drew on 25 years of experience in offsetting in New South Wales, as well as national and international biodiversity assessment methods. It is set to a standard of ‘no net loss’.

The review found that the BAM is scientifically robust, repeatable and provides a high level of transparency in assessments. It has been applied to over 200 major projects and over 100 stewardship assessmentsⁱⁱ. The prescriptive and metric-based nature of the BAM has increased consistency, and therefore confidence, in the outcomes of impact assessments, enabling them to be weighed against the estimated gains at biodiversity stewardship sites. Proponents now demonstrate how their proposal avoids and minimises impacts on biodiversity, which is improving the practice of considering biodiversity impacts early in project design.

The risk-based approach embedded in the design aligns the level of assessment effort with that of impact (for example, developments expected to have low biodiversity impacts have reduced assessment requirements).

The scientific rigour of the BAM has been demonstrated through peer review with elements published in scientific journals (DPE 2023b). Accounting for Nature has accredited the components of the BAM that assess vegetation integrity (Accounting for Nature 2023).ⁱⁱⁱ The method has also been endorsed by the Australian Government for use by all projects in New South Wales that require assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) (Australian DCCEEW).

The BAM is underpinned by best available data and information on biodiversity in New South Wales, which is subject to a program of continuous improvement. For example, the vegetation condition benchmarks used in the BAM are a comprehensive, quantitative and objective dataset used for evaluating vegetation health.

Collectively, these findings indicate that the BAM is, in general, operating as intended. However, increases in efficiency, simplification of processes and providing support for implementation are possible. The review makes recommendations that seek to achieve these improvements.

1.2 Report structure and recommendations

The structure of this report follows the stages of the BAM, with recommendations discussed by generalised themes under the relevant stage.

- Stage 1 is used to assess biodiversity values on a site and is common to all assessment types.
- Stage 2 outlines the hierarchy of avoid, minimise and offset for assessing impacts, and informs credit calculations.
- Stage 3 focuses on predicted gain from management actions and assessment of the number and type of credits generated on a biodiversity stewardship site.

Recommendations have been allocated to one of 3 implementation categories:

1. **Immediate:** Improvements to guidance, data and systems that support BAM assessments. These do not require an amendment to the BAM so implementation can begin immediately, although some recommendations may take up to 12 months to operationalise.
2. **Short term:** Relatively minor amendments to the BAM that improve quality or efficiency and address known issues. These recommendations are likely to have limited effect on the operation of the broader scheme and can be implemented within 12–18 months. Amending the BAM will require public exhibition in accordance with the BC Act.
3. **Long term:** Significant amendments that will require time to develop and test implications for the scheme as a whole (for example, market impacts). These changes are best considered alongside any changes to the BAM that result from reforms to the BC Act.

These implementation timeframes assume sufficient resourcing for delivery.

2. Recommendations from the review of the BAM

2.1 Stage 1 – Biodiversity assessment

2.1.1 Improvements to assessing vegetation integrity

The vegetation integrity score is a key component of the BAM. In Stage 1 the vegetation integrity score is used to quantify the current condition of the vegetation on the site. It does this by quantitatively measuring the extent to which the vegetation differs from best-on-offer benchmarks.

Data from BAM assessments demonstrates that, in most scenarios, the vegetation integrity metric is a reliable measure of relative vegetation condition. However, it was less robust when measuring the vegetation integrity (and therefore biodiversity value) of derived native grasslands. The assessment data also highlights opportunities to increase cost-efficiency through adjustments to field data collection requirements and the importance of maintaining up-to-date vegetation condition benchmarks given the significant role they play in determining vegetation condition.

Immediate

Recommendation 1 – Develop and adopt robust and consistent methods to:

- review and assess impacts of changes in vegetation condition benchmarks to the BAM
- update vegetation condition benchmarks.

Short term

Recommendation 2 – Improve the assessment of derived native grassland by:

- clarifying the definition of derived native grasslands
- developing guidance to support assessments including the application of appropriate benchmarks (grassland benchmark or grassy woodland benchmark)
- adopting a ‘floor-value’ for the sub-indices that comprise the vegetation integrity metric to ensure impacts to these communities are adequately assessed and offset.

Recommendation 3 – Create a framework to support assessors to identify the most appropriate benchmarks to use in assessments, including:

- a requirement to apply published dynamic benchmarks in certain conditions unless justification is provided
- emphasis on using more appropriate local data where benchmark confidence is low.

Long term

Recommendation 4 – Improve efficiency by revising assessment intensity via evaluation of the appropriateness of the number of plots required per area of vegetation zone.

2.1.2 Scalability of the BAM

The BAM was intended to be used as a single assessment for all types of development and vegetation clearing. However, applying the method to biodiversity-certify strategic land-use planning proposals or assess long linear developments presents unique challenges, including:

- an inability to collect field data because of limited site access before project approval
- increased complexity because linear projects intersect many vegetation zones and species credit species habitats
- extensive survey requirements when applied over very large impact areas.

These difficulties have led to a reliance on assumptions to generate information required for assessment (e.g. benchmark values for vegetation condition or assuming presence of species credit species, discussed further in section 2.1.3), often with the effect of inflating predicted biodiversity impacts. This is compounded when the BAM is applied at the concept design stage to achieve project approval milestones and a more refined project footprint is determined post approval.

While there are not many of these types of developments, due to their sheer size they can have considerable impacts on biodiversity and would be better supported by tailored assessment approaches.

Immediate

Recommendation 5 – Review species credit species survey requirements to include scalable survey approaches and promote the use of novel survey technologies, prioritising newly listed and most frequently assessed species.

Recommendation 6 – Develop guidance to address specific issues in applying the BAM to linear developments including case studies (to be replaced by Recommendation 7 when it is operational).

Long term

Recommendation 7 – Develop tailored assessment approaches, such as innovative modelling and mapping tools, for the biodiversity certification of strategic land-use planning proposals and linear developments that consider their unique nature and ensure efficient, representative assessment of biodiversity impacts.

2.1.3 Support threatened species assessments

Threatened species that cannot reliably be predicted to occur on a site based on habitat surrogates are classed as ‘species credit species’ in the BAM. Assessors determine if a species is present on a development site by survey, an expert report, or assuming presence. To ensure the integrity of species credit generation, biodiversity stewardship agreements cannot generate species credits by assuming presence. While survey is the most accurate form of assessment, the alternative options are designed to provide flexibility in applying the BAM (for example, where project timeframes are tight, and the survey window is narrow).

Assuming presence results in calculation of the maximum species credit obligation, incentivising the application of more accurate methods. However, analysis of development proposals shows that at least one, sometimes all, species credit species are assumed present in most assessments. The reasons for relying on this option are unclear but could be related to cost (for example, credits are competitively priced when compared to the cost of survey or expert reports), difficulty of survey (e.g. lack of guidance, cryptic species or those that require seasonal survey, project timeframes), or limited availability of experts to undertake an expert report (e.g. the small number listed on the department’s website, possibly driven by the process to gain expert status).

Assuming presence can artificially elevate demand for species credits, result in an inaccurate picture of the impacts of development, and lead to perceptions that the scheme is costly. Reducing reliance on assumed presence and encouraging greater use of more accurate assessments paired with refinements to the approach to identify species requiring survey, would address these issues.

Immediate

Recommendation 8 – Proactively increase the departmental list of experts for commonly impacted species (for example, through an expression of interest process, directly approaching known experts, working with universities and other institutions).

Recommendation 9 – Provide additional survey guidance for species credit species that is fit for purpose and practical to apply including publication of taxa-specific guides.

Short term

Recommendation 10 – Prioritise methods to confirm presence of species credit species (for example, 1. survey, 2. expert report, 3. assume presence), with justification required where lower tiers or a combination of options are used.

Long term

Recommendation 11 – Refine the process for identifying species that are likely to occur at a site and therefore require assessment. Using best available information for individual species to predict habitat more accurately may reduce assessment requirements.

2.1.4 Indices used to assess species credit species

For species credit species, one of 2 indices are used to estimate the carrying capacity of the site for the species: count of individuals or area of suitable habitat. The indices are the base unit for credit calculations. There may be more ecologically relevant, species-specific (or functional group-specific) indices that better estimate the ‘value’ of a site for the target species. These alternatives should be explored (Mayfield et al. 2022).

Long term

Recommendation 12 – Review species credit species indices to:

- develop a suite of taxa-specific abundance or habitat quality-based indices that are valid indicators of site value and are practical to measure and implement
- identify the most appropriate indices for each species credits species.

2.1.5 Assessment under extreme conditions

Assessments during or following extreme events (for example, bushfires, floods, droughts) are unlikely to reliably determine the presence of species credit species and confidently estimate the condition of vegetation (for example, vegetation integrity metrics rely on vegetation condition benchmarks designed for ‘average’ conditions).

While the department has taken some steps to address the application of the BAM post bushfire (DPE 2023a), use is voluntary, leading to inconsistent implementation.

Guidance needs to be expanded to accommodate other scenarios, especially given the likelihood of increasingly extreme weather patterns due to climate change. BAM settings should include when and how this guidance is to be applied.

Short term

Recommendation 13 – Create a provision in the BAM to enable variation of the method in extreme conditions. The provision will include a:

- clear definition of when it would apply
- requirement to apply guidance published in accordance with the provision.

The provision will be supported by guidance to support assessments to achieve a no net loss outcome.

2.2 Stage 2 – Impact assessment

2.2.1 Strengthen avoid and minimise requirements

The avoid, minimise, offset hierarchy underpins the scheme and is operationalised through the BAM. Proponents must avoid and minimise impacts to biodiversity values, documenting these in the Biodiversity Development Assessment Report (BDAR).

The BAM provides direction and examples on the application of this provision but does not set a threshold for adequacy. The NSW Land and Environment Court rulings (NSWLEC 2021b, 2021c, 2021d) provide some direction on avoiding areas of high biodiversity value.

The independent review of the BC Act recommends the Act require a standard of genuine and demonstrable steps to avoid and minimise impacts. Strategic planning (for example, under Part 3 of the *Environmental Planning and Assessment Act 1979*) may be more effective in providing a land-use planning mechanism to avoid areas of high biodiversity value. The independent review also recommends the scheme be applied to the rezoning proposals under the *Environmental Planning and Assessment Act 1979*. If these recommendations are supported by government, they will require implementation through the BAM.

Immediate

Recommendation 14 – Publish guidance on avoidance with reference to NSW Land and Environment Court rulings.

Long term

Recommendation 15 – Consider allowing the requirement for site-based avoid and minimise assessment to be met where it can be demonstrated that these measures were achieved at the strategic planning phase. Note this recommendation will require alignment with the NSW planning system and the government response to the BC Act review.

2.2.2 Consideration of serious and irreversible impacts

The scheme establishes the concept of serious and irreversible impacts (SAIL) to protect biodiversity most at risk of extinction from development or clearing. Assessment of an SAIL is one of the most challenging components of the BAM because:

- data to support assessments is often lacking
- there is low understanding of the intent of, and process undertaken by the department to list an entity as ‘at risk’ of an SAIL
- the information presented in the BDAR may be unclear or insufficient to inform decision-making.

These issues are exacerbated by the consequences of an SAIL which include, depending on the development type, not granting approval or requiring additional measures to minimise the proposed impacts.

Decision-making on SAIL must be robust, consistent and transparent to protect biodiversity and ensure confidence in the BAM and the scheme more broadly. The NSW Land and Environment Court judgements (NSWLEC 2021a, 2021c, 2021e, 2022, 2023a, 2023b) have provided some clarity for decision-makers, but improved access to data, information and detailed guidance is needed.

The following recommendations are made within the current legislative framework. Provisions in the BC Act relating to an SAIL were raised through the independent review of the legislation. These recommendations are being considered by the NSW Government.

Immediate

Recommendation 16 – Investigate opportunities to better support SAIL assessments (for example, additional tools or information for the most commonly assessed entities).

Recommendation 17 – Update guidance for decision-makers to include:

- the department’s process to list entities at risk of an SAIL
- interpretation of information presented in a BDAR
- examples and case studies including reference to the NSW Land and Environment Court decisions.

2.2.3 Strengthen protection of high biodiversity values

Areas of highly threatened vegetation and species habitat, particularly if in good condition, are a priority for protection. The BAM is designed to encourage proponents to avoid impacting these areas by calculating a higher credit obligation. Data from assessments^{iv} indicates this is working to some degree, as most impacts are on non-

threatened vegetation in low to moderate condition. However, impacts on highly threatened biodiversity or high-condition habitat still occur with some frequency.

The BAM settings can be strengthened to incentivise avoiding these biodiversity values. These recommendations are long-term and will be considered in the context of recommendations to improve credit supply from this review and the NSW Government response to the BC Act review.

Long term

Recommendation 18 – Protect high biodiversity value and condition habitats by making changes to calculate higher credits obligations if these areas are impacted, for example, increasing the biodiversity risk weightings for highly threatened ecological communities and species, and/or adopting a multiplier for high-condition habitat.

Recommendation 19 – Review the thresholds that determine when offsets for threatened ecological communities are required, with a view to encouraging impact avoidance.

2.2.4 Review prescribed impacts to clarify the objective of assessments

Prescribed impacts are provided for in the BC Act, defined in the Biodiversity Conservation Regulation 2017 and assessed under the BAM. The list is diverse including changes to waterbodies and hydrological processes; impacts on caves and geological features; movement corridors; and strikes by wind turbines or vehicles. Prescribed impacts are hard to predict, measure or replace and the BAM does not provide a method to quantify them in biodiversity credits.

To improve assessment outcomes for these unique biodiversity values, provisions for prescribed impacts should be reviewed as part of the BC Act reforms. A clear objective and definition could be used to test the current list for appropriateness and consider expansion, for example, a range of marine biodiversity values.

Immediate

Recommendation 20 – Continue to support accredited assessors to undertake prescribed impact assessments under the current settings through the BAM operational manuals and the development of targeted guides, as needed.

2.3 Stage 3 – Improving biodiversity values

2.3.1 Ensure estimated gains for species credit species are robust and appropriate

The BAM is used to calculate the type and number of biodiversity credits by predicting gains in the number of individuals for some species and improvements in habitat quality for others. Gains assume all relevant threats and pressures on the site are managed.

For species where improvements are a measure of habitat quality, gain models are reliant on vegetation integrity scores. While it is likely that vegetation integrity is an adequate proxy for some species, for others this score is likely to be a poor predictor of gain (for example, for species that are dependent on non-vegetative habitat attributes). In addition, reliance on a vegetation-based metric makes it difficult to incorporate into credit calculations the benefits of management actions that do not directly affect vegetation condition, such as predator or disease control.

Similarly, gain models for species assessed by abundance-based calculations are generic. These rates were estimated based on ecosystem-level data, rather than tailored to the target threatened entity, and may over or under-represent these species' response to management.

Long term

Recommendation 21 – Revise species gain models by:

- assessing the ecological validity of current models for each taxon
- refining or developing replacement models for taxa or functional groups where current approaches are inadequate.

2.3.2 Support active restoration management actions

The BAM promotes the restoration of highly degraded native vegetation and species credit species habitat through active restoration management actions (ARMA). These actions are in addition to standard or required management and will yield a higher number of credits. Active restoration is crucial for achieving the necessary improvements in both the extent and condition of native vegetation.

To date there has been low uptake of ARMA in biodiversity stewardship agreements. This may be because the cost of implementing ARMA is higher than the benefits through increased credits. There is also some uncertainty around achieving the predicted gain for ARMA, and settings are unclear and do not always align with broader restoration practices. A number of recommendations are proposed to address these issues, from providing information and case studies to allow landholders to better understand ARMA, through to adjusting settings in the BAM.

Immediate

Recommendation 22 – Develop and communicate evidence of successful active restoration on biodiversity stewardship agreement sites through case studies, online publishing of best-practice management actions and costings.

Short term

Recommendation 23 – Amend the list of ARMA in the BAM, with input from the restoration practitioner community, to clearly delineate actions that may be used to create additional credits.

Recommendation 24 – Increase the number of credits that can be obtained from ARMA based on an evidence and risk-based framework (replacing the current flat risk weighting).

2.3.3 Ensure averted loss and additionality settings are appropriate

The BAM is used to assess loss and gain relative to a baseline scenario^v. For the calculation of gain at biodiversity stewardship sites, the BAM accounts for this baseline scenario by seeking to quantify ‘averted loss’ and ‘additionality’. These represent the estimated future biodiversity loss and gain, respectively, in the absence of a biodiversity stewardship agreement being established on the site. The 2 components directly influence the number of biodiversity credits generated at a stewardship site but can be subjective to apply, leading to inconsistent results.

Determining if there is an existing conservation obligation and then identifying an appropriate credit discount is overly complex and has led to inconsistent outcomes in some situations. Where the rules are standardised, for example, prescribed time periods for varying existing agreements or percentage reductions for certain types of land, discounts are easier to implement but may be too blunt in application. These rules can, for example, disincentivise landholders with established biodiversity stewardship agreements from supplying additional biodiversity credits to the market and potentially introduces inconsistencies in credit yields for landholders who do proceed. While additionality settings are important to retain, they can be modified to achieve intended outcomes.

Averted loss and additionality are both measured from the baseline scenario and assessing them independently creates unnecessary complexity. Streamlining and simplifying the 2 components of the method will improve transparency, ease of interpretation and application.

Short term

Recommendation 25 – Remove additionality provisions related to existing biodiversity stewardship agreement variations within a prescribed period of time (that is, Section 11.9(4) of the BAM).

Long term

Recommendation 26 – Update definitions and guidance on averted loss and additionality and streamline their calculation as a component of biodiversity gain.

2.3.4 Incentivise protection and enhancement of connectivity

Landscape connectivity is not explicitly addressed in the BAM. There is conflicting empirical evidence on the role of habitat connectivity (and fragmentation) per se in the persistence of biodiversity in landscapes, as opposed to total habitat amount. Previous NSW-based offsets methods were criticised for including landscape value scores in credit calculations, because giving additional credits based solely on location (that is, the site is part of a corridor) ultimately results in a greater amount of habitat loss.

Instead, connectivity is embedded within the BAM^{vi}. For example, vegetation integrity uses total vegetation extent in estimating gain at a biodiversity stewardship site, through the landscape context modifier. This assumes that the rate of improvements in vegetation condition decline with reductions in the cover of native vegetation in the broader landscape. Similarly, landscape connectivity plays a role in determining the likelihood of occurrence of a threatened species on a site.

Incentivising the protection and restoration of landscape connectivity could be helped by stronger avoidance mechanisms (via prescribed impacts), and by promoting the establishment of biodiversity stewardship sites in areas targeted to protect and repair degraded linkages in the landscape. Landholder-directed support, such as government-funded assessments and support to enter a biodiversity stewardship agreement are program-level initiatives that could achieve these objectives.

Immediate

Recommendation 27 – Promote the establishment of biodiversity stewardship agreements in strategic corridors via program-level initiatives.

2.3.5 Recognise achievement of gains above those predicted by the BAM

The number of credits created under a biodiversity stewardship agreement is based on predicted improvement in biodiversity values over a 20-year management period. The metrics estimate the probability of reaching benchmark condition from the management actions outlined in the management plan.

Sites that start at low–moderate condition, or where active restoration is being undertaken, are considered unlikely to reach benchmark within 20 years. Further gains could be achieved during the next 20-year timeframe, enabling the creation of additional biodiversity credits. Management plans include an ecological monitoring component that tracks the improvement in vegetation integrity. Sites that meet or

surpass predicted gains could be awarded the appropriate number of credits and an opportunity to refresh the management plan and total fund deposit. There is potential for this to occur at or before the 20-year mark.

The BAM does not address how further gains should be assessed and the associated credits created. Explicit provisions could be added to clarify and promote achieving additional gains in biodiversity. Guidance would be required to support implementation.

Another approach that can be used to recognise the achievement of gain is the staged release of biodiversity credits. The approach is available in circumstances where the biodiversity stewardship agreement includes provisions to issue a number and type of biodiversity credits at a time later than registration, such as when a species credit species occupies new areas of habitat following the completion of ARMA at the stewardship site. Staged credit releases could be promoted through guidance and case study examples.

Immediate

Recommendation 28 – Develop operational policy and guidance to support the implementation of staged credit release when habitat is restored, and species occupancy is detected in these areas of the biodiversity stewardship site.

Long term

Recommendation 29 – Develop explicit provisions to calculate additional credits where outcomes are above predicted gains (that is, re-assessment, re-calculation of the total fund deposit and payment schedule).

2.4 General

2.4.1 Improve operational delivery of the BAM

The guidance, data and systems that operationalise the BAM require periodic updates to maintain relevance and usability. Stakeholder feedback is that the frequency and coordination of changes could be improved; transitional arrangements need to be clearer; and could be better communicated. Concerns have also been raised around the accuracy, stability and functionality of BAM-related systems and data management tools. These issues cause frustration and increase assessment timeframes and costs.

Improvements in the quality and consistency of Biodiversity Assessment Reports produced using the BAM could achieve significant efficiencies and process improvement across the scheme. For example, requiring use of simplified reporting templates would give decisions-makers confidence that the BAM has been applied appropriately.

Immediate

Recommendation 30 – Where appropriate, synchronise changes to guidance, data and systems based on a set schedule and communicate this schedule to stakeholders.

Recommendation 31 – Maintain the operability of the BAM credit calculator, including the user support and interface; managing ‘fixes’; and standardising data capture and collection to a central repository.

Recommendation 32 – Create streamlined templates to support consistent and high-quality reporting and provide confidence in outcomes for decision-makers.

3. Biodiversity Conservation Act 2016 review

A statutory review of the BC Act has been completed by an independent panel, with findings tabled in Parliament on 24 August 2023. A separate review of the native vegetation provisions of the *Local Land Services Act 2013* was also tabled. The BC Act and regulations inform and establish requirements for the BAM. The NSW Government is now considering both reviews, in consultation with key stakeholders, while developing a whole of government response. If the Government pursues reforms in response to the review, this may require changes to the BAM.

The independent panel made a range of recommendations related to the Biodiversity Offsets Scheme. Those with implications for the BAM include:

- strengthening applications of the avoid and minimise requirements
- changes to SAI
- changes to credit generation to support the supply of credits
- simplifying the offset rules where possible and without compromising biodiversity outcomes
- introducing additional offset options.

The BC Act review panel noted that any changes to the BAM would require careful analysis to ensure that implications for stakeholders and the integrity of the operation of the biodiversity offsets market are appropriately considered.

4. Implementing the recommendations

Following publication of this review report, the department will develop an implementation program. The program will schedule the delivery of the 15 'immediate' recommendations and the 7 'short term' recommendations that will be the focus of initial revision of the BAM. It is likely that other small improvements (for example, language, formatting and updates to naming conventions) will be incorporated into the initial revision. Proposed amendments to the BAM will be publicly exhibited in accordance with the BC Act before a new BAM is made by Order. The implementation plan will also be used to determine prioritisation and resourcing.

The department will further analyse the 'long term' recommendations, including market implications, and consider these changes alongside any changes to the BAM that may be required in implementing the NSW Government response to the BC Act review.

5. References

Accounting for Nature (2023) Method catalogue – Accounting for Nature, Accounting for Nature Ltd, Sydney NSW, accessed 23 November 2023.

Australian DCCEEW (Australian Government Department of Climate Change, Energy the Environment and Water) (2023) New South Wales bilateral agreement for environmental assessments, Australian Government Department of Climate Change, Energy the Environment and Water, accessed 23 November 2023.

DPE (Department of Planning and Environment) (2023a) Guideline for applying Biodiversity Assessment Method at severely burnt sites, NSW Department of Planning and Environment, accessed 23 November 2023.

DPE (2023b) Vegetation condition benchmarks, NSW Department of Planning and Environment, accessed 23 November 2023. See ‘Supporting science’ for scientific papers related to the BAM.

DPIE (Department of Planning, Industry and Environment) (2020) Biodiversity Assessment Method 2020, NSW Department of Planning, Industry and Environment, Parramatta NSW.

Mayfield HJ, Bird J, Cox M, Dutson G, Eyre T, Raiter K, Ringma J and Maron M (2022) ‘Guidelines for selecting an appropriate currency in biodiversity offset transactions’, *Journal of Environmental Management*, 322:116060, doi:10.1016/j.jenvman.2022.116060.

NSWLEC (Land and Environment Court New South Wales) (2021a) Blake v Ku-ring-gai Council [2021] NSWLEC 1461, Land and Environment Court New South Wales.

NSWLEC (2021b) IRM Property Group (No. 2) Pty Ltd v Blacktown City Council [2021] NSWLEC 1306, Land and Environment Court New South Wales.

NSWLEC (2021c) Planners North v Ballina Shire Council [2021] NSWLEC 120, Land and Environment Court New South Wales.

NSWLEC (2021d) Tomasic v Port Stephens Council [2021] NSWLEC 56, Land and Environment Court New South Wales.

NSWLEC (2021e) White v Ballina Shire Council [2021] NSWLEC 1468, Land and Environment Court New South Wales.

NSWLEC (2022) Statewide Planning Pty Ltd v Blacktown City Council [2022] NSWLEC 1024, Land and Environment Court New South Wales.

NSWLEC (2023a) 746 Greendale Road Greendale Pty Ltd v Liverpool City Council [2023] NSWLEC 1372, Land and Environment Court New South Wales.

NSWLEC (2023b) Denwol Suffolk Pty Ltd v Byron Shire Council [2023] NSWLEC 1602, Land and Environment Court New South Wales.

Parliament of New South Wales (2023) Independent review of the Biodiversity Conservation Act 2016: Final report [PDF 708 KB], NSW Department of Planning and Environment, accessed 23 November 2023.

ⁱ Consultation formed a key part of the review process with external submissions sought by the former Department of Planning and Environment in August 2023. The *Biodiversity Assessment Method 5-year review: Submissions report* summarises this stakeholder input.

ⁱⁱ Approved assessments to October 2023 as recorded in the Biodiversity Offsets and Agreement Management System.

ⁱⁱⁱ Accreditation applies to the Biodiversity Conservation Trust's use of the BAM under its Ecological Monitoring Module.

^{iv} Internal review of finalised assessments accessed through the Biodiversity Offsets and Agreement Management System

^v This is designed to ensure the change in biodiversity value is directly attributable to activities enabled by the scheme, accounting for any change likely to have occurred in the absence of these activities.

^{vi} Note impacts to areas connecting threatened species habitat, such as movement corridors, is a prescribed impact assessed in Stages 1 and 2 of the BAM (see section 2.2.4 of this report).