

Seeking Mortgagee Consent for Agreement with the Credits Supply Taskforce

Frequently Asked Questions for Financial Institutions

Who is the Credits Supply Taskforce?

The Credits Supply Taskforce (Taskforce) is established within the Department of Planning and Environment using existing provisions in the *Biodiversity Conservation Act 2016* (NSW), to support and encourage landholders to protect and conserve biodiversity on private land.

What will the Taskforce do?

The Credit Supply Taskforce will:

- Fast-track supply of biodiversity credits by proactively supporting landholders to enter into biodiversity stewardship agreements that generate priority credits (credits most likely to be in demand)
- Operate the Biodiversity Credits Supply Fund – acquire priority biodiversity credits and on-sell them to proponents to support the delivery of infrastructure and other projects as those projects are approved, and seek to:
 - lower the cost of biodiversity credits compared to current forecasts, increase certainty and reduce delays for proponents
 - reduce the need for proponents to pay into in the Biodiversity Conservation Fund as a way to meet offset obligations
 - improve liquidity and confidence in the biodiversity market and the Biodiversity Offsets Scheme.
- Enhance conservation benefits by contributing to regional and landscape-scale conservation objectives, integrating private and public land measures and contribute to a cohesive biodiversity strategy for the State
- Help coordinate the assessment of land for additions to the national park estate with efforts in increasing the number of stewardship agreements.

What is a biodiversity stewardship site?

A biodiversity stewardship site is an agreed area of private land from which biodiversity credits are generated. This land is bound by the terms of the Biodiversity Stewardship Agreement (BSA) which clearly defines the area and management obligations of the biodiversity stewardship site. BSAs are in-perpetuity and management actions are transferred to the new owner if the property changes hands.

How are Management Plans created?

The Management Plan of each BSA outlines the terms of the agreement. The terms are prepared and agreed upon in consultation with the landholders.

What funding is involved in a Biodiversity Stewardship Agreement?

All BSAs have ongoing funding in the form of annual payments (which provides income to the landholder), if the landholders implement the management actions identified in the Management Plan.

When and why is a mortgagee consent needed?

A mortgagee consent is required when a landholder is interested in putting a Biodiversity Stewardship Agreement on their land and the land is subject to a mortgage.

This written consent legislative requirement is outlined in s5.9 and s5.21 of the *Biodiversity Conservation Act 2016* (NSW).

The *Biodiversity Conservation Act 2016* outlines that the mortgagee consent is required prior to the execution of a Biodiversity Stewardship Agreement or a Conservation Agreement.

If the property is sold, what obligations are carried with the change in title?

All Biodiversity Stewardship Agreements are registered on the title of the land. If the property is sold, the obligations under the Agreement are transferred to the new landowner listed on the title of the property. There are no changes to the Agreement obligations in the event of property sale, and any funding is also transferred to the new owner.

Can properties with agreements be readily sold?

The experience of the Credits Supply Taskforce, the Biodiversity Conservation Trust and its predecessor the Nature Conservation Trust, is that properties with conservation agreements are readily sold. In the past these have been properties without funding under the agreement. The funding provided through a BSA is expected to increase the saleability of a property if the landholder chooses to sell.

What is the security of annual payments and source of funds?

Annual management payments are released to the landholder when the landholder has adequately undertaken the required management actions as defined in the agreement and Management Plan during the previous management year.

Funds for making annual payments to landholders with Biodiversity Stewardship Agreements are put aside by the Biodiversity Conservation Trust for the future. For BSAs, this is through Total Fund Deposits paid by landholders or developers on their behalf to the Biodiversity Stewardship Payments Fund. The Fund is managed by the Biodiversity Conservation Trust in accordance with Division 7 of the *Biodiversity Conservation Act 2016*.

What is the Total Fund Deposit?

The Total Fund Deposit amount (TFD) is the amount of money set in a Biodiversity Stewardship Agreement (BSA) to cover future land management costs. Total Fund Deposits are paid into the Biodiversity Stewardship Payments Fund (BSPF) when credits are sold. Through the Biodiversity Conservation Trust, this fund then makes annual payments to the landholder to cover costs of land management under the Biodiversity Stewardship Agreement management plan.

What is to be included on a mortgagee consent?

Consent from the mortgagee must be in writing. The Credits Supply Taskforce has prepared documents which can be used by financial institutions as a template or as a guide as to the content of the consent.

The main points which are required to be outlined in a mortgagee consent include:

- The name of the owner of the property who is entering into the Agreement
- The name and address of the property which is entering into the Agreement
- The Lot/DPs which are subject to the Agreement
- The mortgage number(s)
- written consent from the financial institution for the landholder to enter the agreement

Further questions?

If you have further questions about the Credits Supply Taskforce, please use the Taskforce contact details listed in the letter or contact the Credits Supply Taskforce information via Stewardship@environment.nsw.gov.au

Environment and Heritage Group, Department of Planning and Environment, Locked Bag 5022, Parramatta NSW 2124. Phone: 1300 361 967 (environment and national parks enquiries); email: info@environment.nsw.gov.au; website: www.environment.nsw.gov.au. ISBN 978-1-922900-29-6; EHG 2022/0560 November 2022.