

Reform summary - Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Act 2024

This table summarises reforms to the Biodiversity Offsets Scheme introduced by the Amendment Act ([act-2024-96](#)) and outlines impacts of commencement by reform item. Most provisions in the Amendment Act commenced on 7 March 2025.

Reform	Effect of Amendment Act
<p>Transitioning the scheme to net positive</p>	<p>The Amendment Act, under s. 6.2, requires that the scheme transition to net positive biodiversity outcomes. The Minister for the Environment must undertake public consultation and publish a strategy which sets out the associated targets, timeframes and actions to transition to net positive.</p> <p>Once the strategy is made the Environment Agency Head must review and report on the implementation of the strategy annually. The strategy cannot be amended in a way that would reduce its effectiveness.</p> <p>The Biodiversity Assessment Method must be updated to a net positive standard as soon as practicable after the strategy is made (s. 6.7(3)). This will require public consultation on the revised method.</p> <p>If any subsequent legislative amendments are required to give effect to this transition, they will be subject to a separate legislative reform process.</p> <p>No immediate impacts for assessors, proponents or consent authorities</p> <p>On commencement:</p> <ul style="list-style-type: none"> • The Minister is required to prepare a strategy to transition the scheme to net positive. • The Biodiversity Assessment Method must be updated to a net positive standard as soon as practicable after the strategy is made.
<p>Strengthening avoid and minimise requirements</p>	<p>The Amendment Act legislates the avoid, minimise, offset hierarchy as part of the provision for the scheme in the purpose of the Act (s. 1.3) and set out a definition for the hierarchy (6.3A).</p> <p>The Amendment Act makes additional changes for the avoid and minimise reforms, however these will not commence until supporting regulations are made and potentially the Biodiversity Assessment Method is remade:</p> <ul style="list-style-type: none"> • Introduction of a new obligation for proponents to take genuine measures to avoid and minimise the impact of a proposed development and to include such measures in a Biodiversity Assessment Report (s. 6.12 and 6.13).

	<ul style="list-style-type: none"> • Allowing the regulations to provide assessment standards for measures taken to avoid and minimise, and requirements for Biodiversity Assessment Reports to include information demonstrating whether the measures taken meet the assessment standards (s. 6.16). Section 6.16 also allows the regulations to prescribe ‘higher assessment standards’ where there may be serious and irreversible impacts to biodiversity, and in other circumstances. <p>No immediate effect on commencement – requires supporting regulations to be developed</p> <p>The Amendment Act introduces a new obligation for proponents to take genuine measures to avoid and minimise and allows the regulations to provide assessment standards for these measures.</p> <p>The provisions related to genuine measures (Schedule 1 items [21], [22] and [25] of the Amendment Act) are not commencing on 7 March. Commencement of these provisions will be sought once supporting regulations are made.</p> <p>On commencement:</p> <ul style="list-style-type: none"> • The avoid, minimise, offset hierarchy will be legislated and defined in the Act (with no operational impact until the assessment standards are developed). • Government will develop assessment standards for genuine measures to avoid and minimise, and will consult on them as part of a regulatory amendment process.
<p>Requiring concurrence from the Environment Minister for certain State significant projects</p>	<p>The Amendment Act (s. 7.14) requires that concurrence is sought from the Minister for the Environment for State significant development and State significant infrastructure where consent conditions differ from the credit requirements in the Biodiversity Development Assessment Report (BDAR).</p> <p>The concurrence power will cover conditions that allow for post-approval modifications, any deferred offsetting arrangements, and the implementation of a Biodiversity Offset Package where not in accordance with the BDAR.</p> <p>The reform:</p> <ul style="list-style-type: none"> • Requires the Minister to decide whether to give concurrence within 14 days of receiving a request, or another period set out in the Regulation, and give notice to the relevant authority. Otherwise, concurrence is deemed to be given.

	<ul style="list-style-type: none"> • Requires the Minister to consider the facilitation of Ecologically Sustainable Development when deciding whether to grant concurrence • Allows the Minister to give concurrence with or without conditions. If concurrence is given subject to conditions, the conditions must be included as conditions of development consent or approval • Introduces a power for the Regulation to set out further detail on the concurrence process, including time frames and the effects of failing to comply with conditions <p>This reform has an immediate effect on commencement</p> <p>On commencement:</p> <ul style="list-style-type: none"> • The Minister for Planning or the Independent Planning Commission, as consent authorities for State significant projects, must seek concurrence from the Environment Minister where consent conditions (including any post-approval conditions) differ from the credit requirements in the Biodiversity Development Assessment Report. • Government will develop and consult on supporting regulations to set out further detail on the concurrence process.
<p>Removing the option for proponents to use the variation rules</p>	<p>The Amendment Act, under s. 6.4(4), removes the ability for proponents to seek approval to use the variation rules, including for standard biodiversity certification. Only the Biodiversity Conservation Trust can continue to use the variation rules.</p> <p>Proponents will still have the option to purchase like-for-like credits, make a payment into the Biodiversity Conservation Fund or fund a conservation action (other than for standard biocertification).</p> <p>Approvals issued before commencement that explicitly allow use of the variation rules will not be impacted.</p> <p>This reform has an immediate effect on commencement</p> <p>On commencement:</p> <ul style="list-style-type: none"> • Proponents will no longer be able to seek approval to use the variation rules, and consent authorities can no longer approve their use in conditions of consent for development approvals. This includes for standard biodiversity certifications. The Biodiversity Conservation Trust can continue to use the variation rules.

	<ul style="list-style-type: none"> • Approvals issued before commencement that explicitly allow use of the variation rules will not be impacted.
Changes to the Biodiversity Conservation Fund	<p>The Amendment Act introduces the following changes to the Fund:</p> <ul style="list-style-type: none"> • The Biodiversity Conservation Trust, who manage the Fund, are now required to acquit Fund obligations within 3 years. If this timeframe is not met, the Trust must enter into an agreement with the Minister for the Environment for how the obligation will be met (s. 6.31(5)). • Clarifies that payments made into the Fund can be pooled by the Trust in line with its objective to deliver strategic and timely biodiversity outcomes • Allows the Regulation to prescribe when a proponent cannot make a payment to the Fund to meet a credit obligation (s. 6.30). This power will have no effect until subsequent regulations are made. <p>There are no restrictions on payment into the BCF on commencement</p> <p>On commencement:</p> <ul style="list-style-type: none"> • The Biodiversity Conservation Trust (BCT) will be able to pool BCF funds • The BCT will be required to acquit BCF obligations within 3 years. • Government will consider and consult on regulations to prescribe when a proponent cannot make a payment to the BCF to meet a credit obligation.
Allowing the Environment Minister to exempt certain local development from the scheme	<p>The Amendment Act creates a power for the Minister for the Environment to exempt local development applications from the scheme in connection with a natural disaster or in exceptional circumstances (s.7.7(3)(4)). It is intended that the power will be used proactively by the Minister to assist communities to recover following a natural disaster or in other exceptional circumstances.</p> <p>The Minister is required to publish exemption orders on a public register. The order must set out the grounds for the order, what development it relates to, and to provide reasons for making the order, including consideration of the facilitation of ecologically sustainable development.</p> <p>In effect on commencement</p>
Requiring the establishment of new statutory public registers	<p>The Amendment Act requires the following public registers to be created and maintained by the Environment Agency Head:</p>

	<ul style="list-style-type: none"> • Serious and irreversible impacts: A register to track decisions to approve SAI determined as part of a planning approval, or modification of an approval, and any additional measures imposed to manage those impacts. The register also captures decisions to refuse approvals on the basis of SAI (s. 9.7(1)(e)). • Offset obligations: A register to track biodiversity offset obligations approved as part of a planning or vegetation clearing approval (or modification of an approval) (s. 9.7(1)(h1) and (h2)), including: <ul style="list-style-type: none"> ○ whether the conditions have been met, and the number and type of credits yet to be retired, and ○ if the conditions have been met—when and how the conditions were met. • Avoid and minimise: A register which reports on the measures to avoid and minimise development and clearing impacts on biodiversity values that are set out in a BDAR, or are required to be taken as a condition of a planning or vegetation clearing approval (s. 9.7(1)(h)). • Local development exemptions: A register of an local development exemptions granted by the Environment Minister, in response to natural disasters or in other exceptional circumstances (s. 7.7(3)(4) and s. 9.7(1)(e1)). <p>The registers, once established, will improve the collection, release and integration of scheme data and information. This will improve efficiency and increase transparency around scheme outcomes and decisions.</p> <p>The Amendment Act also allows the regulations to make further provision about the public registers (s. 9.11(1)(2)), including:</p> <ul style="list-style-type: none"> • the form of the registers, • the information required to be included in the registers, • the requirement for persons to give the Environment Agency Head information for the purposes of the registers • the correction of the registers. <p>In effect but no immediate impact on commencement – requires development of supporting digital systems</p> <p>On commencement:</p> <ul style="list-style-type: none"> • The Environment Agency Head is required to create and maintain the above registers. These provisions will be non-operational until appropriate digital systems are established. • The Department will work with consent authorities to develop the registers.
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	<ul style="list-style-type: none"> • Once the new registers are established, decision-makers will be required to provide relevant information generated from decisions relating to development or vegetation clearing to the Environment Agency Head. Further updates, guidance, and support will be provided to consent authorities and other impacted parties as the systems are developed. • Government will develop and consult on any supporting regulations.
<p>Establishing a process, through the Regulation, for a landholder to request a review of the biodiversity values map.</p>	<p>The Amendment Act allows the Regulation to set out a process for landholders to request a review of the Biodiversity Values Map on their property. The Regulation can make provisions related to this, including application requirements and processes, decision-making, fees, and declaring decisions to be taken to have amended the map (s. 7.4(4)). The existing administrative process for landholder-initiated reviews of the map will continue until the regulatory amendments have been made.</p> <p>No immediate impact on commencement</p> <p>On commencement:</p> <ul style="list-style-type: none"> • Government will develop and consult on regulatory amendments to set out a process for landholders to request a review of the Biodiversity Values Map on their property.
<p>Allows the Regulation to determine whether the test of significance applies as a trigger into the scheme for local development</p>	<p>The Amendment Act creates a regulation-making power to allow the Regulation to determine whether the test of significance applies as a trigger into the scheme for local development (s. 7.2(3)). This amendment will not have any effect without a subsequent regulatory amendment.</p> <p>The regulation-making power is necessary to allow Government to consider all triggers into the scheme for local development as a package through amendments to the regulations. Reform options available through regulatory amendments would have been constrained without this power, as the test of significance is established in the Act itself.</p> <p>The detail of changes to the entry thresholds for local development will be considered as part of amendments to the Regulation.</p> <p>No immediate impact on commencement</p> <p>On commencement:</p> <ul style="list-style-type: none"> • Government will consult on any potential regulatory amendments to entry thresholds for the scheme.

<p>Allows local development to use staged offsetting</p>	<p>The Amendment Act clarifies that all local development proponents can be permitted to use staged offsetting arrangements where a development is proposed to proceed in stages (s. 7.13(5A)).</p> <p>In effect on commencement</p>
<p>Clarifies options to meet a condition to retire biodiversity credits</p>	<p>The Amendment Act clarifies existing provisions around the ability of all proponents to use the options under offset rules (at clause 6.2 of the Biodiversity Conservation Regulation 2017) to meet a credit obligation.</p> <p>For local developments, the previous wording of the legislation created uncertainty around whether a consent authority could impose a condition other than retiring credits. This potentially prevented local development proponents from being able to use other biodiversity conservation measures such as funding a conservation action.</p> <p>In effect on commencement</p>
<p>Expands how the ‘relevant proportion’ of a Total Fund Deposit (TFD) upon first credits transfer is determined</p>	<p>The Amendment Act provides more flexibility around how the required payment of management funding into the Biodiversity Stewardship Payments Fund (BSPF) is calculated when a credit is first transferred or retired.</p> <p>The previous method for calculating this payment could result in perverse outcomes in some instances where a landholder is only proposing to sell a portion of their credits, creating a disincentive to sell credits.</p> <p>The Amendment Act gives the Environment Agency Head greater discretion to determine how to calculate the required payment if they are of the opinion that that the standard method is not appropriate (s. 6.21(3A)). This will support the functioning of the market and help biodiversity stewardship agreements move into active management more quickly.</p> <p>In effect on commencement</p>
<p>Allows for transitional arrangements to be written into the Biodiversity Assessment Method</p>	<p>The Amendment Act allows for savings and transitional arrangements to be written into the Biodiversity Assessment Method if it is remade or amended (s. 6.8(4)).</p> <p>Prior to the Amendment Act, when the method was amended or replaced it would come into immediate effect. This created transitional issues for assessors and proponents. The ability to create savings and transitional provisions for the method will assist to smooth the transition between versions of the method.</p>

	<p>In effect on commencement</p>
<p>Streamlines Biodiversity Stewardship Agreement consultation requirements</p>	<p>The Amendment Act moves the consultation requirements for entering or amending a Biodiversity Stewardship Agreements from the Ministerial level to the Department level (s. 5.5(3)). The previous requirement for the Minister for the Environment to consult with the relevant Ministers was unnecessarily onerous. The amendment allows consultation to instead occur between Departments. This will streamline processes for entering a Biodiversity Stewardship Agreement and help to reduce approval times.</p> <p>In effect on commencement</p>
<p>Removes consent and consultation requirements to vary a BSA except to add additional land</p>	<p>The Amendment Act simplifies the process to vary a Biodiversity Stewardship Agreement by only requiring consent and consultation for any new land added through a variation (s. 5.11(2)). Previously, a variation was subject to the same consent and consultation requirements as establishment of a new agreement, even if the variation was only minor. The amendments will streamline processes for varying an agreement and help to reduce approval times.</p> <p>In effect on commencement</p>
<p>Allowing the Regulation to provide for the Environment Agency Head to charge fees for scheme-related services</p>	<p>The Amendment Act allows the regulations to set out additional fees that can be charged by the Environment Agency Head for services provided in relation to the scheme (s. 6.6(4)). This provides Government greater flexibility to decide when fees should be charged related to the scheme.</p> <p>No immediate impact on commencement</p> <p>On commencement:</p> <ul style="list-style-type: none"> • Government will consider and consult on any proposed changes to fees as part of the regulatory amendment process.