

# Submission Guide: Private Land Conservation

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## A guide for making submissions on the NSW biodiversity reforms

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The importance of private land for biodiversity conservation has long been recognised, with many threatened species and ecological communities found only on privately owned and managed lands. The new private land conservation framework will deliver a full range of initiatives and incentives to support landholders who want to establish a protected area on their land.

This document provides the detailed information stakeholders will need to know about private land conservation and the establishment of the Biodiversity Conservation Trust to make a submission on these elements of the reforms. It includes a number of 'consultation questions' which stakeholders may like to address in submissions.

## More Information

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Other submission guides are available for stakeholders who are interested in making submissions on the new land management framework, the Native Vegetation Regulatory Map, the new approach to delivering ecologically sustainable development in NSW, and the new approaches to listing threatened species and regulating native wildlife.

The draft Biodiversity Conservation Bill and draft Local Land Services Amendment Bill are also available in full for public exhibition.

Visit <http://landmanagement.nsw.gov.au>

## Have your say on the proposed changes

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You can share your comments on the proposed changes by making a submission online at <http://landmanagement.nsw.gov.au/haveyoursay>.

You can also send your submission to:

Biodiversity Reforms - Have Your Say  
PO Box A290  
Sydney South  
NSW 1232

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## 1. Private land conservation

Our national parks and reserves protect many sensitive environments, provide natural places for our wildlife to live, and protect sites of cultural and historic significance. These and other public lands (such as travelling stock reserves and state forests) provide significant protection for biodiversity in NSW.

Landholders who protect the plants and animals on their land (known as ‘private land conservation’) also play an important role in keeping biodiversity across NSW healthy. Healthy biodiversity and ecosystems in turn support healthy and productive landscapes. Many landholders carry out important actions that protect wildlife, restore habitats, and enhance the diversity and quality of ecosystems at their own cost. The importance of private land for biodiversity conservation has long been recognised, with many threatened species and ecological communities found only on privately owned and managed lands. Our goals for conserving biodiversity cannot be achieved without supporting private landholders.

The Independent Biodiversity Legislation Review Panel (the Panel) recognised that engaging private landholders in conservation is an important opportunity.

This submissions guide explains how we will improve the way we support this important work and make it easier and viable for landholders to contribute to biodiversity conservation on their land. The new private land conservation framework will deliver a full range of initiatives and incentives to support landholders who want to establish a protected area on their land and manage biodiversity to improve its quality on their properties.

The NSW government has committed \$240 million over five years to private land conservation, and \$70 million per annum (escalated) ongoing thereafter, subject to performance reviews. This is the single largest commitment to private land conservation ever made in NSW.

### The new private land conservation framework

The proposed new private land conservation framework provides a more streamlined and strategic approach to private land conservation. It will be supported by the proposed Biodiversity Conservation Trust (the Trust), which will deliver substantial new government investment in private land conservation guided by a Biodiversity Conservation Investment Strategy. The Trust will be able to enter into and administer voluntary private land conservation agreements with landholders.

The new framework consolidates the existing seven different types of conservation mechanisms into three tiers of voluntary private land conservation agreements (see Figure 1). Each tier will have varying management needs and funding for landholders.



**Figure 1.** Existing and new structure of conservation agreements.

The three tiers are described below.

1. **Biodiversity Stewardship Agreements** will provide an opportunity for an upfront market payment and permanent stewardship payments for permanent protection and management of biodiversity. The resulting biodiversity improvements will be expressed as biodiversity credits. These agreements will be used for the NSW Biodiversity Offsets Scheme, where the biodiversity credits can be used to offset approved development impacts. These agreements can also be used for direct government (and any philanthropic) investment as part of a comprehensive new private land conservation program to secure long-term conservation outcomes.
2. **Conservation Agreements** are permanent or time-bound agreements. They will be supported by stewardship payments to landholders that reflect the level of management actions required. These agreements will typically be used for higher conservation value land where management actions are being undertaken to protect existing biodiversity values.
3. **Wildlife Refuge Agreements** are entry level agreements that support simple and effective land management. Agreements will be able to be terminated at any time or converted into higher forms of agreements, and may be eligible for grants.

This new framework will remove duplication, improve incentives and reduce barriers for landholders to enter into long-term private land conservation. It will deliver more targeted on-ground conservation outcomes through provision of better support to landholders across a more consolidated system.

## Biodiversity Conservation Investment Strategy

The draft Bill requires preparation of a Biodiversity Conservation Investment Strategy. This strategy will guide the government and the Trust’s investment in biodiversity conservation across the state. This will take into account areas in NSW where biodiversity is currently protected on public and private land.

Investment will be targeted to agreed priority areas. These will include:

- areas of high conservation value
- areas containing key habitats, threatened species and vegetation communities that are not well represented in the public reserve system
- areas that provide important links to isolated areas of native vegetation.

Priority areas will also include Areas of Outstanding Biodiversity Value (AOBV), as they contain biodiversity values important to the whole of NSW. Prioritising AOBV for investment will ensure landholders have access to ongoing support for maintaining these irreplaceable areas.

### Consultation Question

- What needs to be taken into account in developing the Biodiversity Conservation Investment Strategy to deliver a strategic approach to investing in biodiversity conservation in NSW?

*Have Your Say at <http://landmanagement.nsw.gov.au/haveyoursay>*

## Role of the Biodiversity Conservation Trust

The Trust is a new not-for-profit statutory body that will work with landholders to increase the share of private land that is protected and managed to improve biodiversity. As part of this role, it will manage significant new public investment in private land conservation. It will also be able to enter into and administer private land conservation agreements with landholders. The Trust will provide a 'one stop shop' for landholders to receive information, advice and assistance to protect and conserve biodiversity values on their properties.

## Biodiversity Stewardship Agreements (Tier 1)

A biodiversity stewardship agreement is a voluntary agreement to permanently protect and manage biodiversity on the site.

Key elements of biodiversity stewardship agreements include:

- Biodiversity stewardship agreements are designed to last permanently. Agreements are registered onto the land title and apply to all current and future owners of the site. This ensures the biodiversity values of the land are permanently protected.
- The agreement can apply to all or part of a property.
- Sites must be protected and managed, for example by making sure native plants and habitat for native animals are not removed from the site, and by controlling weeds and feral animals.
- The agreement generates biodiversity credits which represent the improvements in biodiversity from conserving and managing the site.
- The credits can be sold to generate upfront profit for the landholder and ongoing funding to support management of the site.
- The credits can be used to offset development impacts.
- The landholder will employ an accredited assessor to assess the biodiversity on their site and calculate the credits. The accredited assessor will help the landholder work out what management actions are needed and the costs. This information will be documented in a draft biodiversity stewardship agreement.

- Once the landholder and the Trust sign the agreement, the landholder can start to sell their credits on the market, or they can use the credits to meet offset requirements of their own development.
- Credits can be sold to developers, government (including the Trust) or philanthropic organisations.
- The landholder negotiates with credit buyers to decide on a sale price but this must at least cover the cost of managing the site. When credits are sold, a portion of the sale price must be paid into a Trust fund managed by the Trust. This money is paid back to the landholder in ongoing annual payments to support management of the site.
- Landholders must monitor the biodiversity improvements and submit an annual report showing they have completed the management actions for that year before they receive their annual management payment.
- Biodiversity stewardship agreements are similar to existing BioBanking Scheme agreements established under the *Threatened Species Conservation Act 1995*.

## Conservation Agreements (Tier 2)

Conservation agreements will protect biodiversity on a site either permanently or for a specific period of time.

Conservation agreements will be administered by the Trust. The purpose of a conservation agreement is to provide for conservation or study of the biodiversity values of the land. Agreements may apply to all or part of a property. Conservation agreements are placed on a property's title and may apply permanently or for an agreed period of time.

The Trust will assess if the property is suitable for a conservation agreement. A conservation agreement may contain restrictions for particular activities or requirements to carry out certain management actions. These are negotiated with the landholder. Once the agreement is entered into, the Trust will provide ongoing support to landholders. The Trust will have modest funding to assist landholders entering into conservation agreements. Conservation agreements may also be eligible for rate relief and tax deductions under limited circumstances.

Conservation agreements are not available to offset development impacts approved under the NSW biodiversity offsets scheme. All offset sites must be secured using Biodiversity Stewardship Agreements.

Conservation agreements will replace a range of existing conservation agreements available under the *National Parks and Wildlife Act 1979* (NPW Act) (conservation agreements), *Nature Conservation Trust Act 2000* (trust agreements) and *Native Vegetation Act 2003* (incentive and conservation Property Vegetation Plans).

## Wildlife Refuge Agreements (Tier 3)

Wildlife refuge agreements provide an important entry level option for landholders who want to protect the biodiversity on their property, but do not wish to enter into a long term or permanent agreement on their land. These agreements are less restrictive than the other types of private land conservation agreements. While wildlife refuge agreements will be registered on the title of the land, they will not be binding to future landholders, and landholders will be free to terminate their agreement at any time.

Wildlife refuge agreements replace the current provisions for wildlife refuges under the NPW Act but are similar in scope.

## What will happen to existing agreements?

While the range of new agreements available to landholders will be streamlined, existing agreements will be carried forward and remain in place. All existing BioBanking Scheme agreements and biodiversity credits will be recognised under the new scheme. There will also be options available for landholders who want to convert their existing agreements to new agreements under the new scheme.

## 2. Biodiversity Conservation Trust

The NSW Government will establish a new Biodiversity Conservation Trust (the Trust) as a not-for-profit statutory body. The Trust will play a key role in two flagship elements of the biodiversity reforms:

- enhancing private land conservation
- expanding the NSW biodiversity offsets scheme.

To improve biodiversity, the Trust will work with landholders to increase the amount of protected and managed native vegetation on private land. As part of this role, it will manage significant new public investment in private land conservation.

The Trust will also provide an important new service to development proponents. Proponents will be able to choose to meet their offset obligations by paying money into a new Biodiversity Conservation Fund. The offset will be located and secured by the Trust. This will make it easier for proponents to comply with the offsets scheme and will enable a more strategic approach to securing offsets across NSW.

Bringing these two roles together in one body will maximise the benefits to the environment and proponents.

## Introducing the new Biodiversity Conservation Trust

The Trust will replace the Nature Conservation Trust and will have a much larger role than the current Trust.

The Trust will:

- invest in private land conservation in line with the government's biodiversity conservation investment strategy
- be responsible for finding biodiversity credits when a proponent has paid into the fund under the new offsets scheme
- enter into and manage private land conservation agreements with landholders
- continue functions of the existing Nature Conservation Trust, such as buying and selling private rural land with a legally binding conservation agreement attached.

A robust governance framework has been developed to reflect the Trust's important role in biodiversity conservation in NSW. The Trust will be established as a not-for-profit statutory body, managed by a board appointed by the Minister for the Environment. It will be accountable for its performance through a published business plan, annual reports tabled in Parliament and audits.

Regular reporting will also ensure the Trust is accountable to the public for its performance, including how it invests public funds in private land conservation and meets its offset obligations.

The Trust is also expected to have a close relationship with landholders or to establish these relationships through partnerships with third party organisations such as Landcare or Local Land Services. The Trust will engage with landholders to support and encourage their participation in private land conservation by establishing conservation agreements. To build and maintain credibility, the Trust will need to be an agile, effective, innovative and customer-focused organisation.

#### Consultation Question

- How can the Trust best support landholders to learn about and participate in private land conservation?

*Have Your Say at <http://landmanagement.nsw.gov.au/haveyoursay>*

## Making it easier for proponents to meet their offset obligations

For the first time, proponents can choose to satisfy offset obligations in their development consent conditions by paying money into a new Biodiversity Conservation Fund managed by the Trust. This will deliver the government's commitment to establish a fund under the 2014 NSW Biodiversity Offsets Policy for Major Projects.

This will be a faster and more certain way for many proponents to meet their obligations. Proponents will still have the option to source biodiversity offsets themselves or to use the services of a third party broker.

Once a payment is made into the fund, the Trust becomes responsible for finding the offsets needed. The Trust must satisfy these offset obligations consistent with the rules of the NSW biodiversity offsets scheme.

The fund will support the growth of the biodiversity offsets credit market and a more strategic approach to investing in offsets across NSW. The Trust will be able to pool offset obligations and funds (including public investment in private land conservation and developer funds) to

establish larger and more viable offset sites. By working with landholders, the Trust will stimulate supply in the market. It is also expected to develop specialist expertise and efficiencies that could support lower prices and better conservation outcomes.

### **Calculating the right amount**

The Trust will use an offsets payment calculator to quote a price for each biodiversity credit type. The price will reflect all of the costs that will be incurred by the Trust in meeting each obligation and the value to a proponent in transferring the responsibility of finding biodiversity credits to the Trust.

More information about the new biodiversity offset scheme and offsets payment calculator can be found in the *Ecologically Sustainable Development* submission guide.