

information sheet

SUSTAINABLE LAND USES

9

BioBanking information sheet

Please note: While all care has been taken in the preparation of this information sheet, it is not a substitute for legal advice in individual cases. The content of this information sheet is current as of July 2011.

This information sheet is one of a series on sustainable land uses which have been developed for Local Aboriginal Land Councils (LALCs) by the NSW Aboriginal Land Council (NSWALC). Copies of the information sheet are available from www.alc.org.au or by calling the NSWALC Policy and Research Unit on (02) 9689 4444.

Biodiversity Conservation and BioBanking

The Office of Environment and Heritage (OEH) BioBanking Scheme is a way in which LALCs can conserve existing biodiversity and protect the threatened animals, plants and ecosystems within their land. BioBanking aims to assist in the conservation of natural environments and biodiversity in NSW through protection and rehabilitation.

What is BioBanking?

BioBanking is a scheme established by the NSW State Government to protect biodiversity. It is a market-based program designed to give landowners an economic benefit from conserving the biodiversity on their land, while also providing potential for landowners to develop their land in an environmentally sustainable way.

To participate in BioBanking a LALC or landowner can act in three different roles:

- A **landowner** wishing to establish a BioBank Site;
- A **developer** wishing to offset environmental impacts associated with a development proposal; and
- A **trader** of biodiversity credits.

All three of these roles are based on creating and selling biodiversity credits.

How does it work?

The Scheme works by assigning “credits” to a piece of land which represents the value of the biodiversity present on that land. The number of “credits” will vary depending upon the condition of their site and the potential for it to improve.

If a landowner wants to develop and/or clear their land, they have to buy from someone else the number of credits which is equivalent to the number of credits that would be lost from their site as an offset to the development. For the developer this provides an alternate process from the normal development application channels, which may include preparing species impact statements.

For a landowner who wants to conserve the biodiversity present on their site, this provides the opportunity to sell the credits associated with their land to the developer. Once used by a developer, the credits cannot be re-used and the land to which the credits belong cannot be cleared in the future. The money generated from the sale of the credits is paid to the landowner as a regular income to maintain and improve the biodiversity present on their land, or as a profit.

Participation in the Scheme is optional. However, once entered into a BioBanking Agreement lasts in perpetuity (forever) and cannot be revoked.

The Scheme is enacted under the *Threatened Species Conservation Act 1995* (NSW) (**TSC Act**).

How do you obtain biodiversity credits?

A LALC or any Aboriginal landowner may contract a qualified BioBanking Assessor to visit their landholdings and assess the area of land which is suitable for BioBanking. The Assessor would use a specific assessment methodology prepared by OEH (the BioBanking Assessment Methodology - www.environment.nsw.gov.au/resources/biobanking/09181bioopsman.pdf) to identify the biodiversity values on site (for example identifying the presence of threatened species and threatened ecological communities). Based on the potential management measures available to improve the biodiversity of the site, the Assessor would then calculate the number of credits to be awarded.

To participate in the BioBanking Scheme, a valid application for assessment and approval of LALC Land Dealings must be made to NSWALC. In preparing the application, the LALC will need to comply with the new application process set out in the *Aboriginal Land Rights Act 1983* (NSW) (**ALRA**) and *Aboriginal Land Rights Regulation 2002* (NSW) (**ALRR**) and the NSWALC Policy on the Assessment and Approval of LALC Land Dealings.

Is the land eligible?

Not all land can be BioBanked. Provided below is a list of criteria which may prevent an Aboriginal landowner from establishing a BioBank site:

- The land forms part of a National Park, nature reserve or similar, under the *National Parks and Wildlife Act 1974*;
- The land is comprised of reserves protected under the *Forestry Act 1916*;
- The land is already used as a biodiversity offset under a property vegetation plan;
- The land already has ongoing conservation measures as a condition of a development consent or approval;
- The land has past, present or proposed uses of the site or surrounding sites that are inconsistent with biodiversity conservation or will prevent management actions from being carried out or biodiversity gains from being achieved (e.g. the land has been seriously contaminated by chemicals); and
- The land contains less than 0.25 ha of native vegetation.

What is in it for me?

As a landowner there are a number of benefits that you may receive by establishing a BioBank site on your property. It is considered that the environmental gain associated with the Scheme is the most significant benefit that landowners will receive. If a LALC or a landowner has a specific interest in the preservation and protection of biodiversity, BioBanking may provide a way for these conservation aims and objectives to be met. Conversely if a LALC or Aboriginal landowner does not have a specific interest in conserving the land, BioBanking may not be the most sustainable land use option available.

In addition to the environmental and possible site conservation benefits, there may be economic benefits. These benefits can include direct profit from the selling of credits, or indirect benefits to LALC community members through increased employment as part of the environmental management measures established.

What are the potential risks?

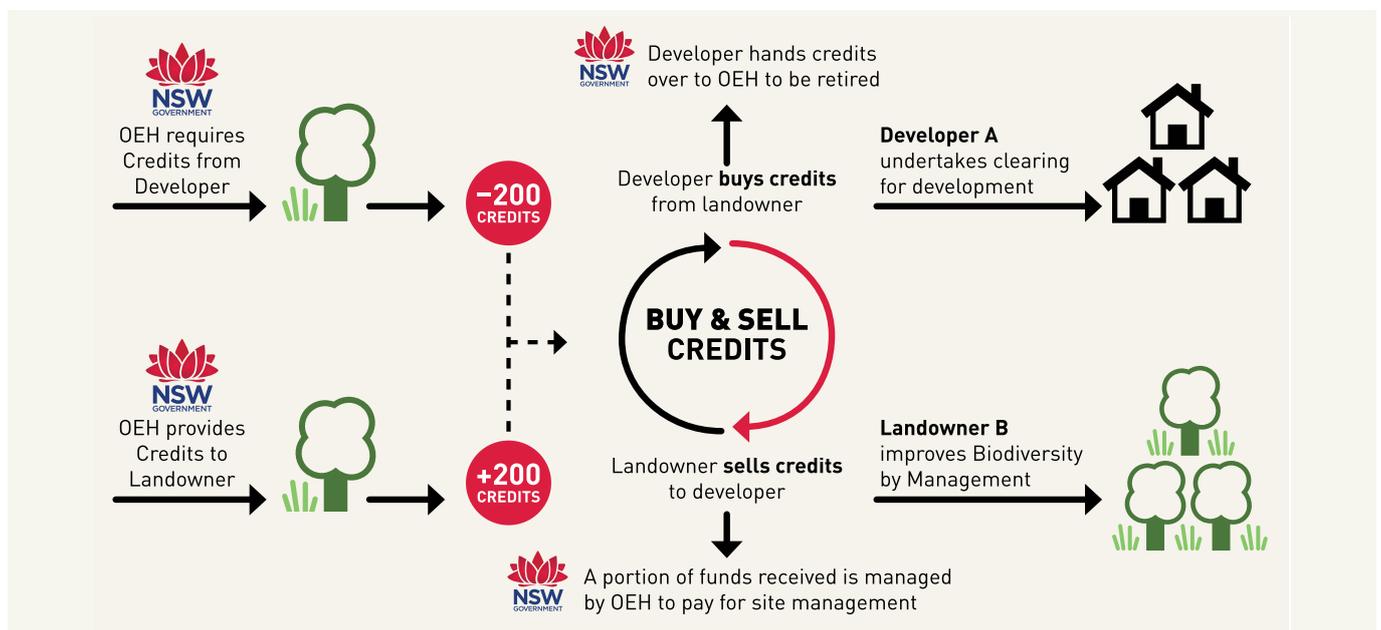
All LALCs should recognise that a BioBanking Agreement is placed onto the land title of the relevant property and is legally binding on all landowners (current and future) in perpetuity.

Once an Agreement has been signed, the landowner will not be able to clear or develop the land to which it applies, or carry out actions on the land other than ones that are identified in the Agreement. As it is associated with the land title, future owners would not be able to clear or develop it either. Depending on the type of BioBanked land, this may lead to a drop in land value should the LALC wish to sell or lease/rent the area.

In the event of serious mismanagement of a BioBank site there are a range of legal actions which may be taken against the landowner.

I'm interested, what do I do next?

NSWALC have produced an extended information sheet relating to BioBanking as well as a Biobanking Guide for LALCs and Aboriginal landowners available at www.alc.org.au. Any LALC interested in BioBanking should contact NSWALC who will be able to provide you with further information about what steps should be taken to investigate the potential for BioBanking on your land.



Available Resources

Resource	Details
NSW Aboriginal Land Council	Phone: (02) 9689 4444 Email: biobanking@alc.org.au Web: www.alc.org.au
BioBanking Team - OEH	Phone: (02) 9995 6753 Email: biobanking@environment.nsw.gov.au
OEH BioBanking Website	Web: www.environment.nsw.gov.au/biobanking
OEH Conservation Partners Program	Phone: (02) 9995 6768 Web: www.environment.nsw.gov.au/cpp/ConservationPartners.htm
Nature Conservation Trust	Phone: (02) 6365 7543 Web: www.nct.org.au
Land and Property Management Authority	Web: www.lands.nsw.gov.au
Australian Taxation Office (ATO)	Web: www.ato.gov.au

Call: Policy and Research Unit on (02) 9689 4444

Email: policy@alc.org.au | **Web:** www.alc.org.au

