

Dear IPART,

I write as a consultant ecologist who has been involved with biodiversity offset scheme (BOS) in a range of capacities over several years. This includes having been a BAM accredited assessor; being consulted by NSW DCCEEW on parameters that feed into the BAM Calculator for numerous threatened flora species and Endangered Populations; a reviewer of BDARs; an Expert Report author for several threatened species; and an expert witness for NSW DCCEEW and some Councils.

The BOS demonstrably fails when there are not credits available for entities that are proposed for clearing, and government's response has been to a) widen the scope of non-like-for-like trades that are permitted, and b) allow the BCT to discharge credit obligations in the form of conservation activities that are required to benefit the relevant entities. This situation is evidence that the BOS and associated credit market does not work in these cases. Some TECs are being allowed to be cleared under the BOS even though the BCT knows that there are no credits available for those entities and that the prospects of generating credits is poor due to the TECs being extensively cleared, and most remnants being too small, isolated and degraded to be viable as credit generating sites. Some of these TECs have SAI status, which is meant to 'red flag' them as something that is especially at risk from further harm. But I've seen how consultants respond to that protocol in BDARs, and the results are often that the SAI status is functionally ignored or at least it achieves very little. A key factor is the absence of data on the rate of clearing of those entities - a question asked in the SAI assessment module. That module should also require the assessor to disclose the credit market for that entity, and where credits don't exist, to provide a credible estimate of the feasibility of them being generated in the short-term as a potential source for that project were it approved. The BDAR should make it very clear when credits don't exist and are unlikely to be able to be generated for an entity. That information should be available to the consent authority and should genuinely 'red flag' the affected entity or entities such that clearing cannot be approved unless it is required for an essential public purpose (which needs to be defined in law). The BOS shouldn't allow clearing of entities where credits don't exist and aren't likely to be generated in the short-term or at all. But that's not what happens. Instead, these already highly threatened entities, particularly some TECs are further cleared without any prospect of credits being secured, leaving only a weak non-like-for-like offset if possible, or the vague 'conservation project' option.

In such cases, payment for non-existing credits is made to the BCT when clearing is approved by consent authorities or by the Court. The BCT then seems to fail to act to obtain those credits or can't secure them because even where potential credit sites exist, the cost of acquiring them is greater than what the BCT charged for the same credits. How it prices those credits is opaque but however it works, it clearly isn't effective in pricing the non-existent credits high enough to stop the clearing. When a TEC is so rare and there are no credits in the market, I would expect that the BCT would have to price the virtual credits so highly that this would function as a disincentive for further clearing. Three years after payment for non-existent credits is made, the BCT must discharge those obligations. It can fund a conservation project that benefits that TEC. But how can we be confident that such projects truly provide benefits and that they are measurable, accountable, and enduring? As an example, one TEC in this predicament has seen the local Council area in which that TEC exclusively occurs, paid by the BCT (via NSW DCCEEW) to run an education and awareness campaign to promote the conservation of that TEC. The same Council that receives that funding also sometimes approves clearing of that TEC, creating a perverse incentive where the more clearing that it allows of that entity under the BOS, the more credit payments go to the BCT that within 3 years, will likely flow back to the same Council that approved the clearing. Then there's the

issue of whether any of the approved conservation projects are credible and accountable. There are ways to do pre- and post-surveys to determine if an educational intervention has been beneficial, and to test whether things such as increased awareness translate to increased positive sentiment, and to on-ground actions such as better livestock management, stock exclusion, weed management, and revegetation where required. All too often, claimed of improved sentiment for something don't translate into positive action, or result in short-term positive actions only. I suspect that the BCT has not required that level of accountability as it would require an environmental sociology approach to be undertaken by an appropriate independent researcher. I don't know the situation because I'm excluded from that process. The fact that the workings of the process would require a GIPA application to access the required information says a lot. IPART may be concerned that the BCT's payments for 'conservation projects' in lieu of securing credits may be inadequately regulated and opaque.

IPART has also asked about experiences with credit assessors. My work has required me to review numerous BDARs and other work prepared by BAM accredited assessors. As a result of the poor quality work that I have often seen, I have lodged several complaints with the Department's 'Reset Team'. Those reports resulted in some action by the Department, but I am not privy to the details. Ideally, actions taken to correct the practices of BAM accredited assessors should be made public so that individuals, businesses and government agencies can see which assessors have been subject to what action, if any. Publicising corrective actions should improve public and industry trust in the scheme because it would be apparent that complaints are being investigated, random audits conducted, and assessors' work appropriately scrutinised and corrected, or the assessor subject to constraints on the nature of the work they can do and where they can do it.


I have seen BAM accredited assessors use that status as evidence of their competency as ecologists, but all too often, I have found their work to be defective, sometimes at the most basic level. Accreditation has a deliberately low entry standard as it was intended to be accessible to all the ecological consultancy industry that the process intended to regulate. But due to severe under-resourcing of the Dept's compliance unit that was supposed to be able to pursue all reports of malpractice, and to conduct random audits of assessor's work, that low entry standard just allowed almost anyone into the scheme, and few have been checked for competency. I've seen accredited assessors who have almost no botanical skills to the point where I wonder how they passed the accreditation exam (which is almost 'open-book' and could involve faking your way through the BAM plot work in the field because this is done in a team that is likely to include at least one person with adequate botanical skill); one who is a marine biologist at PhD level but had no terrestrial ecological knowledge; another who despite a decades long career, never lodged a BioNet Atlas record and has never been prosecuted for this as a breach of their Scientific License that they are required to hold when accredited (they have since opted out of the scheme); that same party has routinely specified the use of survey methods that are laughably non-compliant (microbat surveys done with a spotlight); one who identified species from overseas as occurring on a site in NSW even though those genera have never occurred in Australia (the assessor did their undergraduate degree overseas and clearly hadn't learnt sufficient Australian botany or even understood that they could check databases to see if those genera occur in Australia). Another situation involved a BDAR that various claimed that no TECs were present on the site; that some were present but others not; and the entailed gross misinterpretation of a Final Determination for one of those TECs. The result was a BDAR that was muddled and misleading yet was prepared not by one inexperienced individual but by a substantial consultancy firm that would have involved several accredited assessors to produce the document. That consultancy had no experience in the geographical area in which that BDAR was prepared.

I have no faith in the BAM accreditation system, yet some Councils and NSW DCCEEW tend to treat it as the benchmark for ecological competency, requiring it as a mandatory criterion in tenders and other work specifications even when the work does not involve the BOS.

BAM accreditation does not differentiate between a recent undergraduate and a practitioner with post-graduate qualifications and/or many years of relevant experience. It does not differentiate between botanists and zoologists. It allowed entry to a person with a degree in microbiology, with no relevant ecological qualifications, and a demonstrable and long history of non-compliant ecological assessment. It doesn't differentiate between a marine biologist with expertise in algae, and a plant ecologist with recognised expertise in threatened flora. Expert Report authors do not have to be BAM accredited (rightly so as there are other more relevant criteria for that status) yet their work can have a large influence on a BDAR.

BAM accreditation was meant to regulate ecological consultancy to exclude incompetent and unethical actors, but it hasn't achieved that, and this undermines the BOS and the associated credit market. When assessors are incompetent, and consent authorities lack the resources to adequately review their work, BDARs can be approved based on multiple flaws that can result in all manner of errors being generated in the credit report. Too often, I've seen BDARs prepared by generalist consultancy staff who have little to no familiarity with the entities that they were required to survey and assess, and who uncritically rely on the Department's species and TEC profile webpages. If the BDAR is faulty, the credit assessment will be faulty, and that has flow-on effects in the market.

The review of the BC Act pointed out some of the problems with accredited assessors and recommended additional resourcing for the Dept's compliance / quality control division. That division did receive a new name, and apparently some additional staff, but I'm not aware of any independent analysis of the adequacy of resourcing relative to the workload.


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