



New South Wales

# **Biodiversity Conservation Amendment (Strategic Offset Delivery Agreements) Regulation 2025**

under the

Biodiversity Conservation Act 2016

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Biodiversity Conservation Act 2016*.

PENNY SHARPE, MLC  
Minister for the Environment

## **Explanatory note**

The object of this regulation is to amend the *Biodiversity Conservation Regulation 2017* to prescribe entering a strategic offset delivery agreement as a biodiversity conservation measure in relation to certain State significant development and State significant infrastructure.

The regulation also requires a public register of strategic offset delivery agreements to be kept and made available. The register must include information for each strategic offset delivery agreement about expenditure incurred and actions that benefit biodiversity values.

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### **1 Name of regulation**

This regulation is the *Biodiversity Conservation Amendment (Strategic Offset Delivery Agreements) Regulation 2025*.

### **2 Commencement**

This regulation commences on the day on which it is published on the NSW legislation website.

## Schedule 1 Amendment of Biodiversity Conservation Regulation 2017

### [1] Clause 6.2 Offset rules under biodiversity offsets scheme (section 6.4)

Omit “credits.” from clause 6.2(2)(e). Insert instead—

credits,

- (f) for major project development—entering into an agreement requiring the applicant or proponent of the development to fund actions that benefit biodiversity values to be carried out by the Environment Agency Head (a *strategic offset delivery agreement*), whether in relation to the development generally or each stage of the development.

### [2] Clause 6.2(6) and (7)

Insert after clause 6.2(5)—

- (6) In this clause—

*major project development* means State significant development or infrastructure under the *Environmental Planning and Assessment Act 1979* that is—

- (a) a priority transmission infrastructure project or REZ network infrastructure project within the meaning of the *Electricity Infrastructure Investment Act 2020*, or
  - (b) generation, storage, network or related infrastructure in a renewable energy zone within the meaning of the *Electricity Infrastructure Investment Act 2020*, or
  - (c) infrastructure to which an LTES agreement within the meaning of the *Electricity Infrastructure Investment Act 2020* applies.
- (7) To avoid doubt, for subclause (6), State significant development or infrastructure is major project development even if part of the project is outside the REZ concerned.

### [3] Clause 6.3A

Insert after clause 6.3—

#### 6.3A Strategic offset delivery agreements—the Act, s 6.4

- (1) A strategic offset delivery agreement (a *SODA*) with the Environment Agency Head may be entered into by the applicant or proponent of major project development after the development consent for, or approval of, the development is given.
- (2) A SODA must require the Environment Agency Head to carry out one or more of the following—
  - (a) the retirement of like-for-like biodiversity credits,
  - (b) the funding of a biodiversity conservation action that would benefit the relevant threatened species or ecological communities.
- (3) A SODA must—
  - (a) specify the number and class of biodiversity credits that would, at the time of entering the SODA, otherwise have been required under the relevant planning approval for the major project development, including under an instrument or agreement required to be made or entered into under the consent or approval in relation to that

- requirement (the *required number and class of biodiversity credits*), and
- (b) require the Environment Agency Head to carry out the actions referred to in subclause (2)(a) and (b) in a way that is consistent with the conservation investment strategy (an *action requirement*).
- (4) The Environment Agency Head must comply with an action requirement.
  - (5) A SODA may specify that the SODA only relates to a specified part of the required number and class of biodiversity credits (a *specified part*).
  - (6) The Environment Agency Head must not enter a SODA unless the Environment Agency Head is satisfied that the benefit to biodiversity values of the actions required to be undertaken by the Environment Agency Head under the SODA referred to in subclause (2)(a) and (b) matches or exceeds the benefit to biodiversity values of the retirement of the whole, or a specified part, of the required number and class of biodiversity credits.
  - (7) The Environment Agency Head must—
    - (a) publish, on a government website maintained by the Environment Agency Head, notice of the Environment Agency Head’s intention to enter into a SODA at least 28 days before entering into the SODA, and
    - (b) implement the actions that benefit biodiversity values under the SODA within 3 years of entering into the SODA, or a longer period approved by the Minister.
  - (8) The Minister must not approve a longer period under subclause (7)(b) unless satisfied the Environment Agency Head has adequately specified how and when the Environment Agency Head will implement the actions under the SODA.
  - (9) In this clause—

*conservation investment strategy* means the strategy, as in force from time to time and published by the Environment Agency Head on a government website maintained by the Environment Agency Head, for setting out the State’s priorities for actions to be undertaken in a specified region under a SODA, including actions for the following—

    - (a) protecting and restoring biodiversity values,
    - (b) improving habitat connectivity,
    - (c) supporting resilience to climate change,
    - (d) delivering in-perpetuity conservation outcomes,
    - (e) benefiting landholders in the specified region.

*major project development* has the same meaning as in clause 6.2.

*strategic offset delivery agreement* has the same meaning as in clause 6.2(2)(f).

**[4] Clause 9.8A**

Insert after clause 9.8—

**9.8A Public register about strategic offset delivery agreements—the Act, ss 9.7(1)(j) and 9.11**

- (1) A public register must be kept and made available under the Act, Part 9, Division 2 of the strategic offset delivery agreements entered into by the Environment Agency Head.

- (2) The following must be included in the public register—
  - (a) a copy of each strategic offset delivery agreement,
  - (b) for each strategic offset delivery agreement—the following information for each 3-month period commencing on 1 January, 1 April, 1 July and 1 October—
    - (i) expenditure incurred by the Environment Agency Head,
    - (ii) details of the actions that benefit biodiversity values that were carried out by the Environment Agency Head,
  - (c) additional information about strategic offset delivery agreements the Environment Agency Head considers appropriate.
- (3) In this clause—  
***strategic offset delivery agreement*** has the same meaning as in clause 6.2(2)(f).