

- Please mute your microphone
- Please turn on your webcam (if you can)
- We will record this hearing for our internal use only
- We will start at 9:32am



**IPART** Independent  
Pricing and Regulatory  
Tribunal | NSW

# Monitoring the NSW Biodiversity Credits Market

Public Hearing

12 September 2023

# Agenda

9:40 am Introduction and context

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10:05 am Session A: Demand in the market

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10:40 am Short break

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11:00 am Session B: Supply the market

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11:35 pm Session C: Trading and governance

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# Welcome and Acknowledgement of Country

Carmel Donnelly PSM  
Chair

Public Hearing



Introduction and context

# Why is biodiversity important?

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- Healthy biodiversity is important for the quality of life of current and future generations
- Biodiversity is under threat from a range of human activities and climate change
- Biodiversity loss can have catastrophic and long-lasting effects

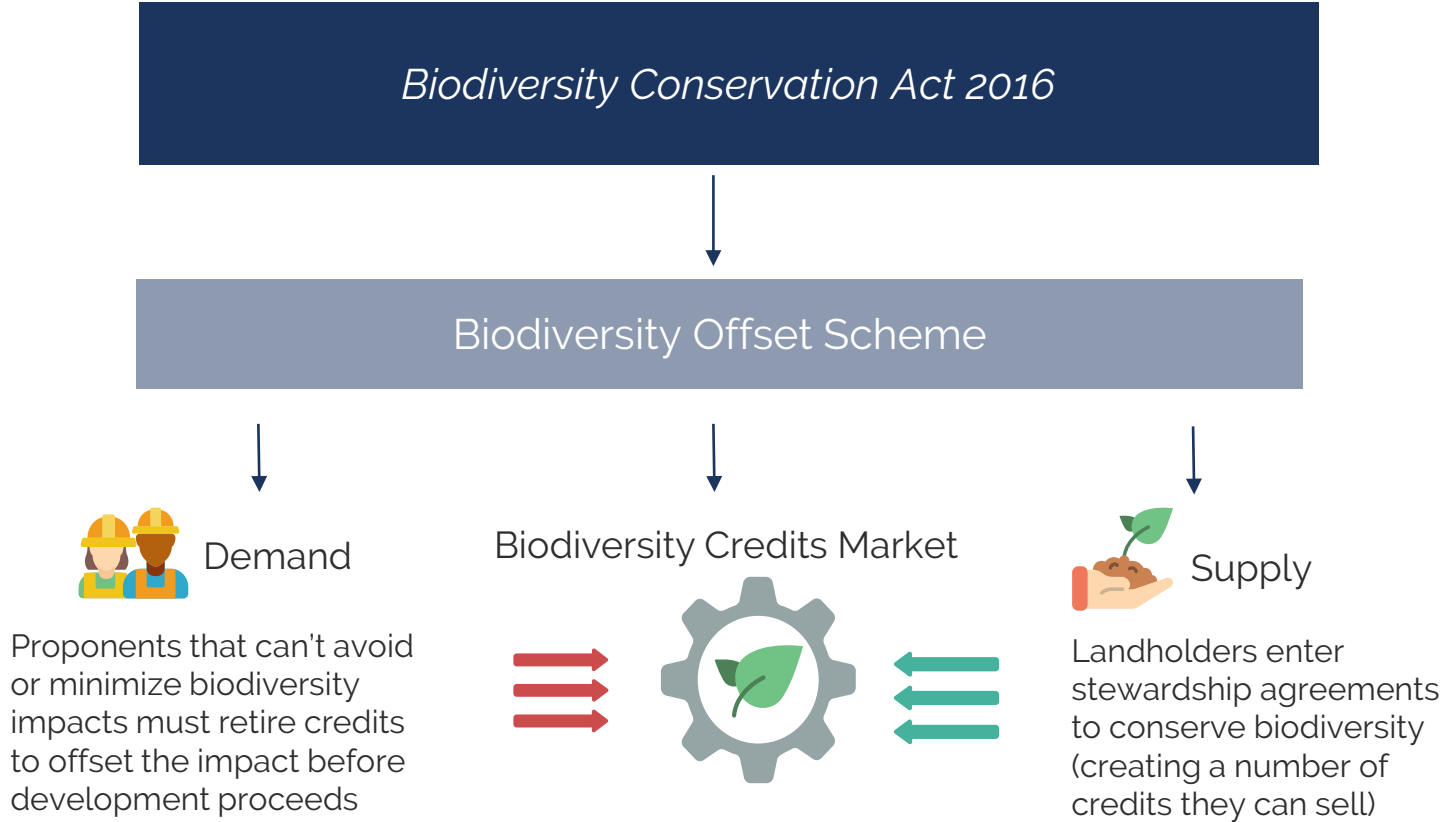
“Past and ongoing rapid declines in biodiversity, ecosystem functions and many of nature’s contributions to people mean that most international societal and environmental goals [...] will not be achieved based on current trajectories.”

*Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES)*

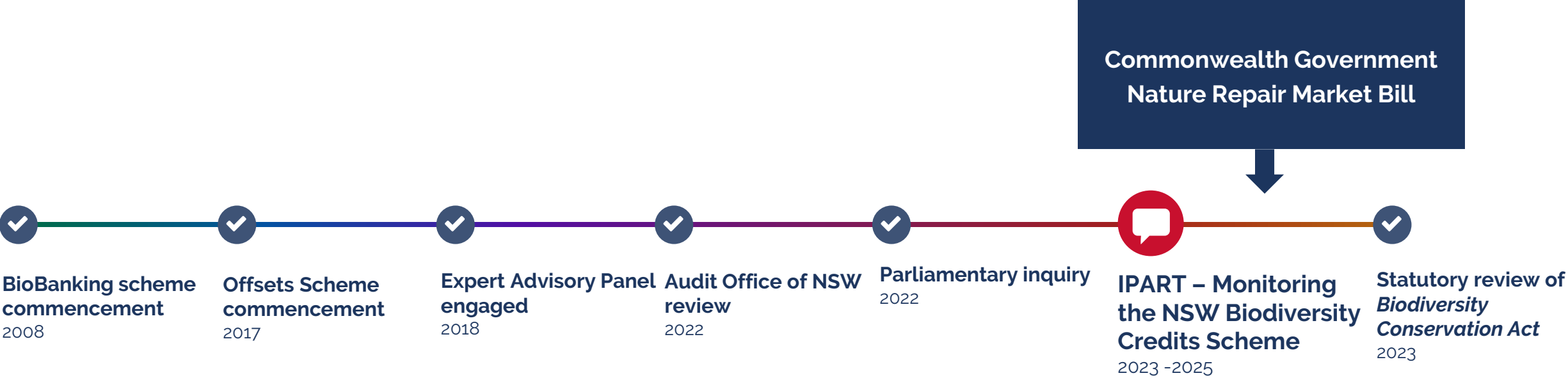
*Global assessment report of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, 2019*

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# What is the credits market's role in protecting biodiversity?



# Context for our review



## Our role

Monitor the performance of, and competition in, the NSW Biodiversity Credits Market over a 3-year period.

A well-functioning credits market brings together credit buyers and sellers to effectively and efficiently trade the credits needed to offset unavoidable impacts on biodiversity.





# Our approach



Define what a well-functioning credits market would look like

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Develop measures to track performance against this standard and identify gaps

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Make recommendations to improve current operation and prepare the market for potential future changes

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# What does a well-functioning credits market look like?



Prices signal the cost of offsetting impacts

Landholders have the right incentives to develop land or conserve biodiversity



Market is easy to navigate

Buyers and sellers understand the market and can enter and trade easily



Timely and transparent information

Buyers and sellers can access necessary information to inform their participation



Appropriate oversight

Market participants and the broader community have confidence that the market is working

# Key themes we will discuss today

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## Session A

### **Demand in the market**

- Demand drivers
- Role and impacts of government interventions

## Session B

### **Supply in the market**

- Supply response to demand drivers
- Information credit suppliers need
- Barriers to entry

## Session C

### **Trading and governance**

- Market complexity and ease of trading
- Role of third parties
- Price discovery
- Governance and compliance

## Objectives of this public hearing

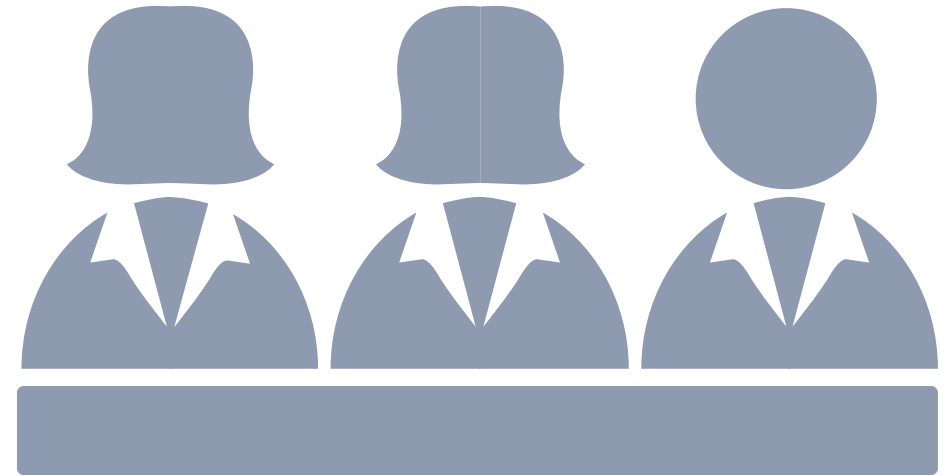
Share and discuss feedback and submissions to our Issues Paper

Provide an opportunity to raise issues we may have missed and ask questions of the Tribunal and IPART Secretariat

Identify the most important issues to consider in depth for our 2022-23 Annual Report

Assist us to understand issues where the data doesn't tell the full story

## Discussion and Q&A session



Public Hearing



Session A  
Demand in the market

# What affects demand for credits in the market?

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**Demand** is set by conditions external to the market

- Rate of development in NSW
- Ability to avoid and minimise impacts on biodiversity
- Approval conditions

**Demand** is also affected by:

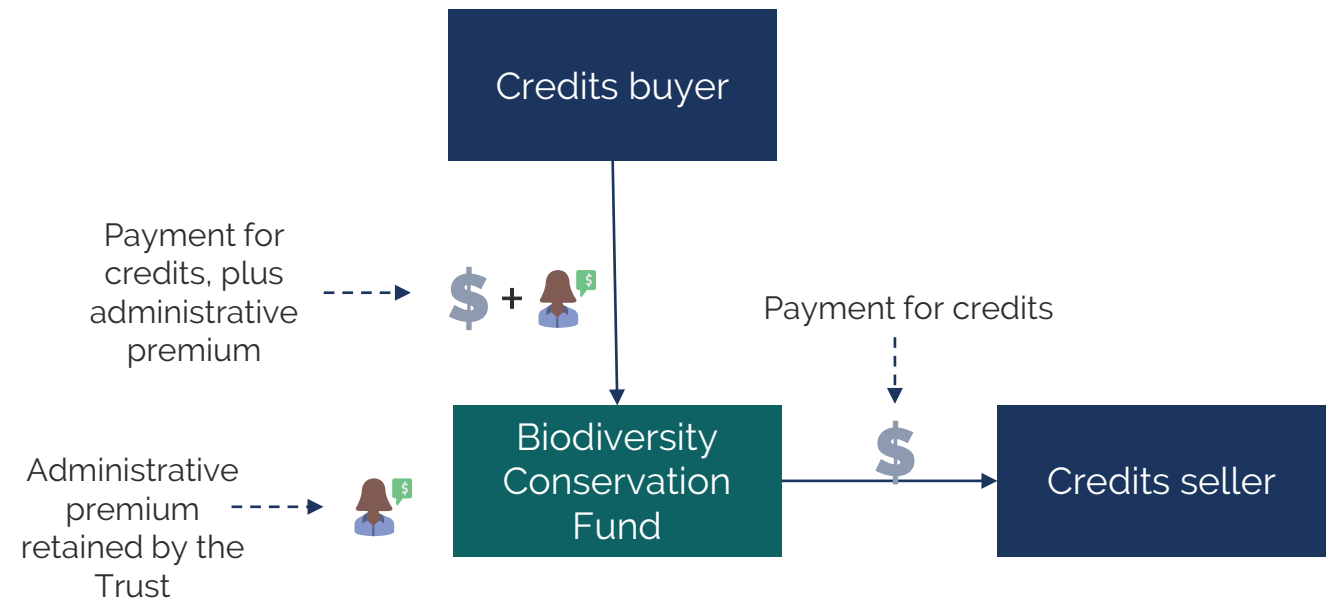
- Biodiversity Conservation Fund pay-in price
- Major projects that need to purchase large numbers of credits in a short timeframe

The Fund pay-in price affects proponents' willingness to pay a market price for credits

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# Role of the Biodiversity Conservation Fund

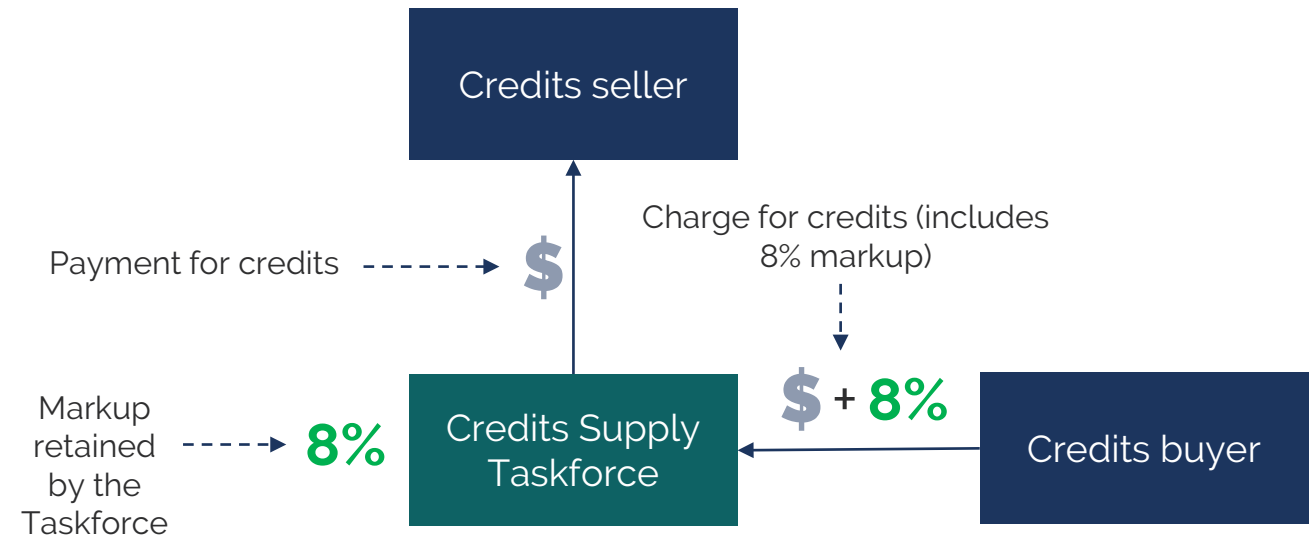
- Proponents can make payments into the Fund to meet their offset obligations
- The way the pay-in charge is calculated was amended in Oct 2022
- A temporary 20% cap on Fund charge increases applies to credits that were priced above \$5,000 under the previous calculator
- The 20% cap expires Oct 2023





# Role of the Credits Supply Taskforce

- The Taskforce buys credits upfront based on known demand, and on-sells them (with a markup) to buyers
- Credits are on-sold to proponents at a price the same or lower than the Fund charge
- The Taskforce only buys credits at a sufficiently lower price than the Fund charge because proponents would otherwise choose to pay into the Fund



# What stakeholders have told us so far



## Fund price ceiling affects competition

The significant uptake of obligations by the Trust limits competition and sets a price ceiling in the market



## Trust accruing obligations

Payments into the Fund are growing faster than the Trust can acquire them in the market



## Major projects create price volatility

Major projects add a sudden influx of demand, which may distort prices. Smaller credit buyers are unable to buy credits in such scenarios



## Fund is not a 'last resort' option

Insufficient incentives for developers to seek credits on-market, proponents accept the 'affordable' Fund charge as a 'tax'



## The Taskforce may drive prices down

The Taskforce uses its exclusive market insights to drive prices lower, and lower price ceilings in the market



## Fund guarantees supply of rare credits

The Fund charge doesn't adequately account for TECs or difficult to procure credits (e.g. those only present on high value land)

# What should we observe in the market?

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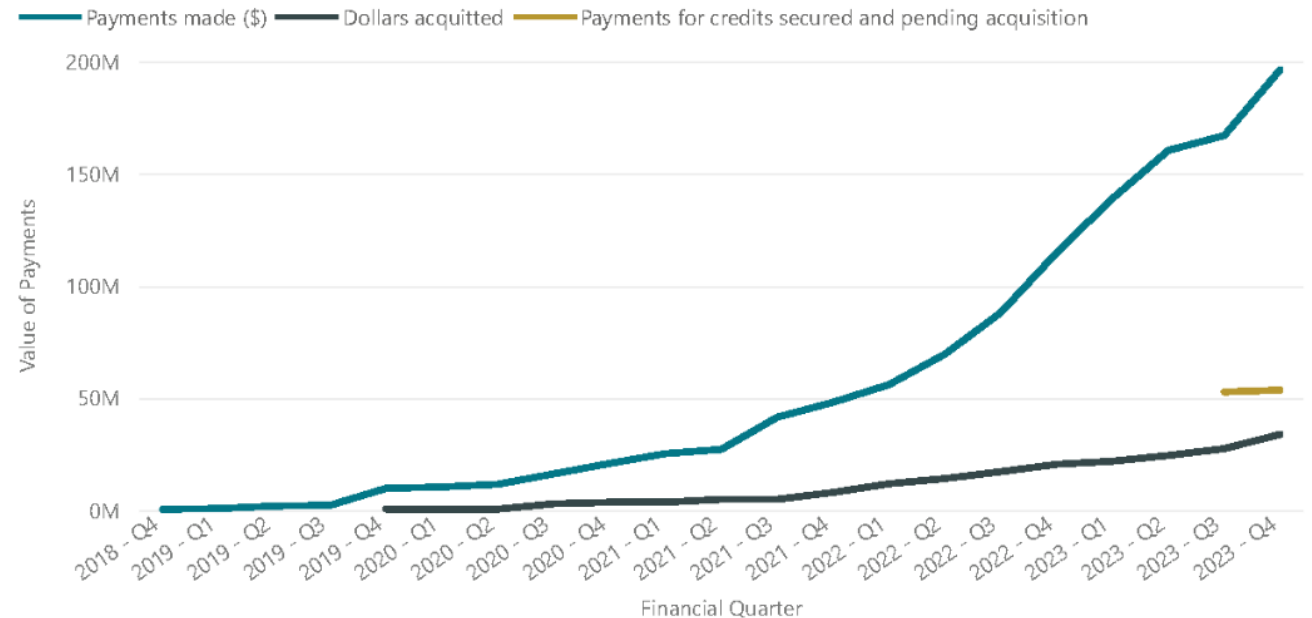
## **In a well-functioning market:**

- Fund charges would be high relative to the price of credits available in the market to allow an effective market to develop
- Payments into the Fund as a proportion of quotes would be low and transactions in the market would increase
- The Trust's liabilities would not be rising and obligations would be acquitted in a reasonable timeframe without making a loss
- Prices of commonly traded credits would be relatively stable over time

# Data supports the Fund charge having been too low

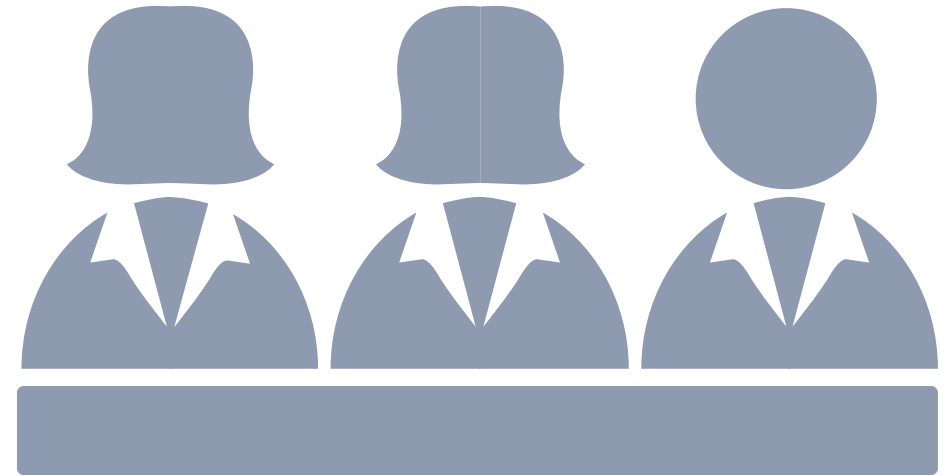
- Proponents are transferring obligations to the Trust faster than they are being acquitted
- Development proponents (or the Trust) are unlikely to buy credits that are priced higher than the Fund charge
- It is too early to tell what effect the new Fund charge method has had in the market

Developer payments received and acquitted by the Biodiversity Conservation Fund (BCF)



Source: Biodiversity Conservation Trust, [Biodiversity Offsets Program Outcomes](#), accessed 11 August 2023

## Discussion and Q&A session



Public hearing



Short break  
10.40 am – 11.00 am

Public Hearing



Session B  
Supply in the market

# The balance between supply and demand

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## **Supply** is inherently limited

- Land is finite
- Competing pressures for land use
- It can take a long time to regenerate biodiversity

**Supply** of the right credits at the right time needs to come online to meet demand if the market is to be effective

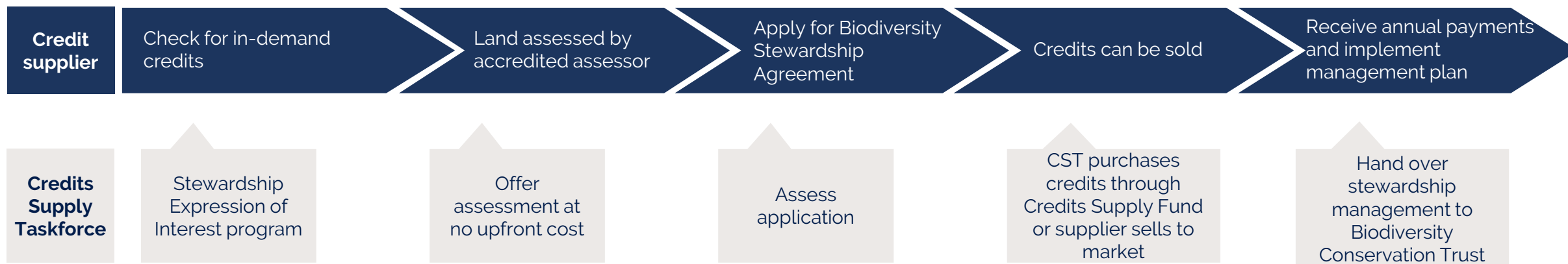
Entry costs, risks, expected prices and likely demand are key factors influencing supply

Matching supply to demand in the market is an ongoing challenge

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# Supply creation and Credits Supply Taskforce role



# Public supply and demand information

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Biodiversity Offsets  
Scheme registers

Indicative demand  
for ecosystem credits

Biodiversity  
Conservation Trust  
Credits Wanted list

Credits Supply  
Taskforce in-demand  
credits map and list

# What stakeholders have told us so far



## Supply and demand information

Stakeholders noted complex and disaggregated information on demand and supply pipelines



## Prices don't reflect opportunity cost

Stakeholders told us credits supply is more closely linked to underlying land value and lost income generating potential of land than biodiversity presence



## Upfront costs and tax implications

Credits sellers noted high upfront costs, difficulties in estimating upfront costs, sourcing accredited assessors and tax implications



## Policy and market uncertainty

Stakeholders reflected on the uncertainty caused by market complexity and policy changes



## Legacy BioBanking credits

Stakeholders noted windfall reductions in BioBanking credits values due to the equivalence calculations, and low market awareness of BioBanking credits



## Risk of not selling credits

Stakeholders said the uncertainty of if/when credits would be sold was a deterrent to entering a Biodiversity Stewardship Agreement

# What should we observe in the market?

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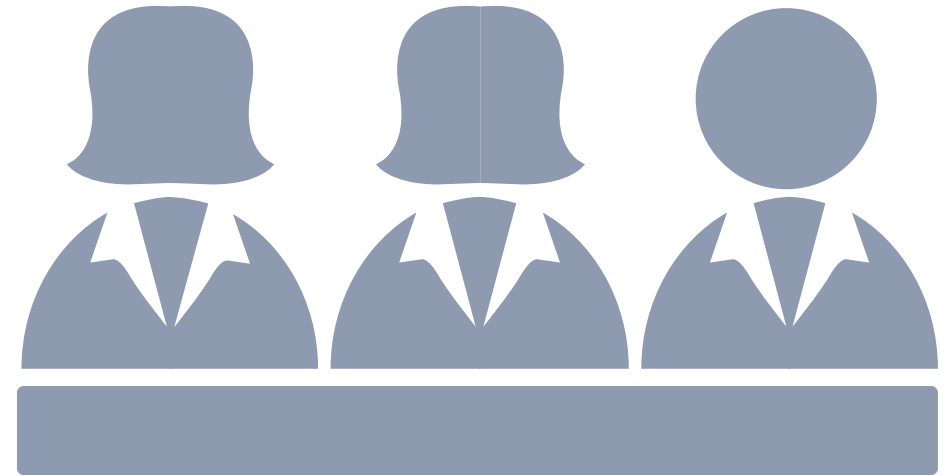
## **In a well-functioning market:**

- More Biodiversity Stewardship Agreements established, particularly for in-demand credit types
- More expressions of interest become established Biodiversity Stewardship Agreements

Market data doesn't tell us everything about barriers to entry and market participants' experiences

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## Discussion and Q&A session



Public Hearing



Session C  
Trading and governance

# How are credits traded in the market?

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Directly between parties



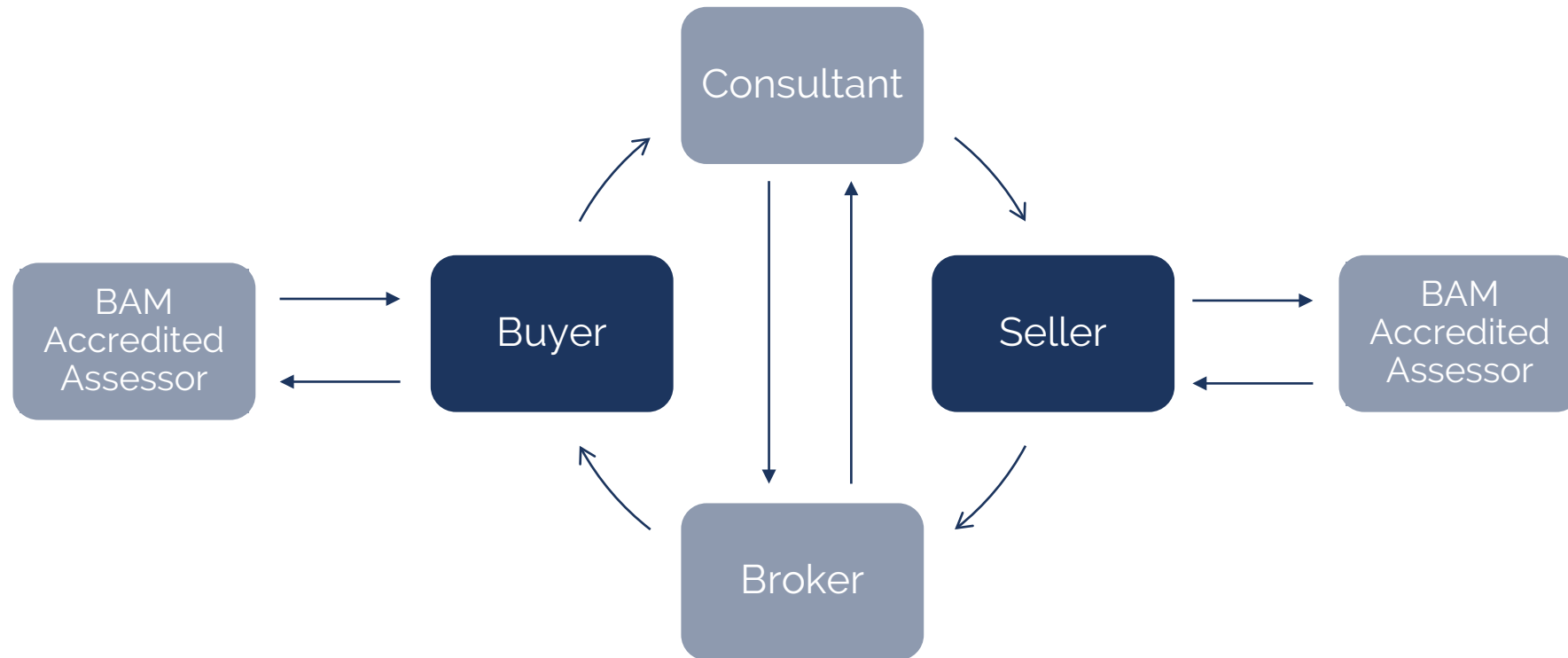
Directly with involvement of consultants and/or brokers



Through government intermediaries

# Example of a broker-assisted transaction

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# What determines the ease of transactions?



## Matching buyers and sellers

Buyers and sellers should be able to easily connect to set up transactions



## Transaction costs

Higher costs add to the difficulty of transactions



## Discovering prices

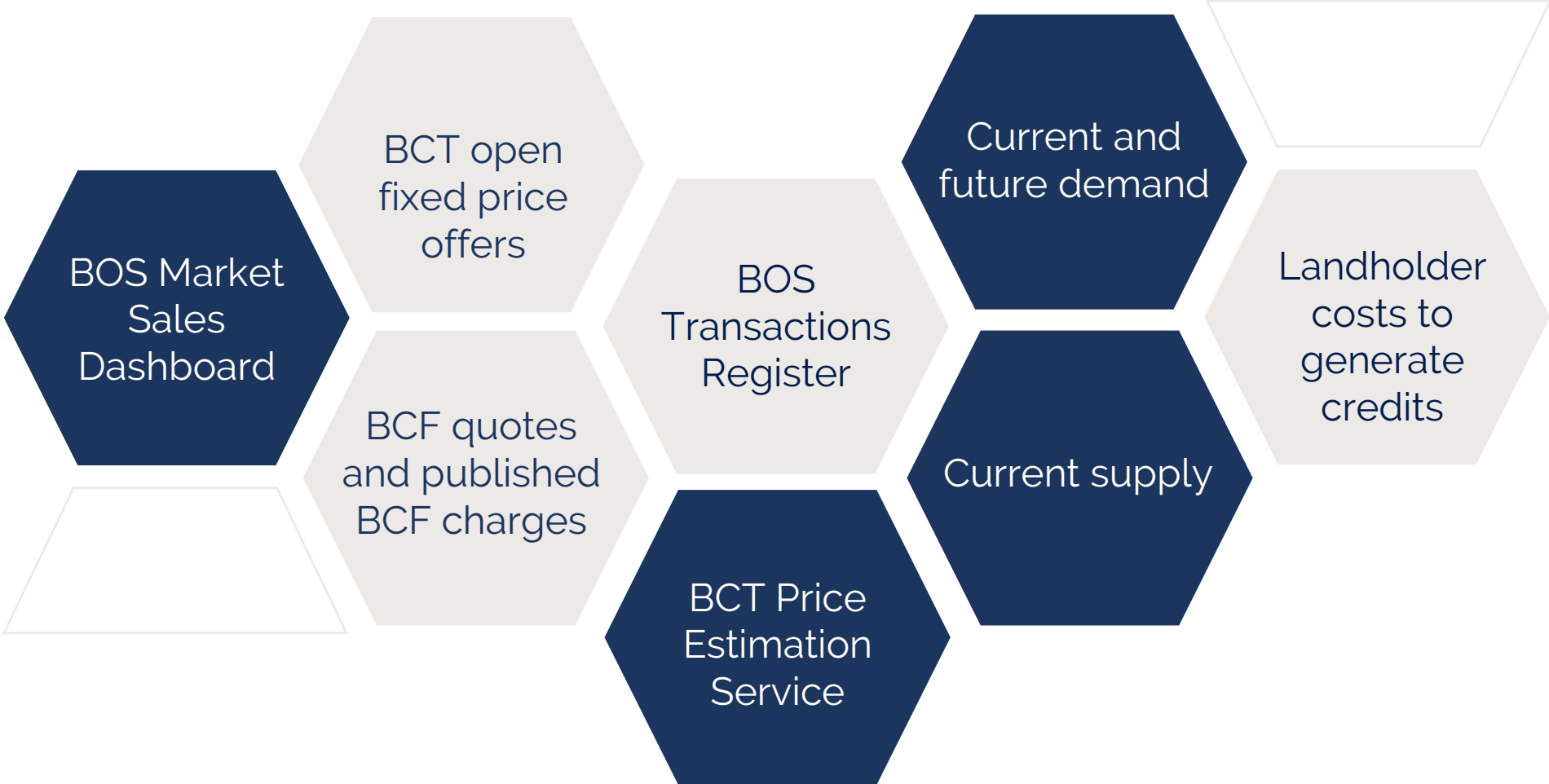
Participants need information on traded credit prices



## Transparent and timely information

Participants need the right information at the right time to make informed decisions

# What informs credit pricing?



# Monitoring compliance in the market

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## Third parties

- Currently there is a reasonably small pool of active brokers and accredited assessors
- One transaction may require negotiations between several parties
- There is no regulation of brokers in the market

## Compliance

- Biodiversity Conservation Trust monitors compliance of Biodiversity Stewardship Agreements to conditions and monitoring plan
- Compliance policy indicates annual site visits
- DPE monitors compliance of Accredited Assessors and credit transactions
- Credit Supply Taskforce monitors compliance with Biodiversity Assessment Method when establishing Biodiversity Stewardship Agreements

# What stakeholders have told us so far



## Difficulty navigating the market

Issues that make transactions more complicated, including finding buyers and sellers and legal requirements



## Price discovery

Information to inform pricing is disaggregated, complex, delayed, and often asymmetric



## Compliance with BSA conditions

Lack of monitoring of BSA site management to ensure biodiversity gains are realised



## Insufficient separation of functions

Concerns about the separation of functions between market participants, facilitators and administrators



## Governance of third parties

Concerns about unregulated brokers and potential conflicts of interest of accredited assessors assisting both buyers and sellers



## Transparency of decision making

Concerns over application of variation rules and Minister and councils' discretion in offset determination

# What should we observe in the market?

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## Trading

- Transactions are completed within a reasonable time
- Timely and high quality pricing data is available

## Governance

- Market participants rate their confidence in the market highly
- Public information available on the BCT compliance monitoring program
- Transparent complaints data that can reveal trends in complaints and allegations of undesirable market conduct

# How we will monitor trading and governance in the market



Investigating transaction data to look at the types of trades that occur in the market and traded prices



Assessing what information is available to help credit buyers and sellers find each other in the market and discover traded prices

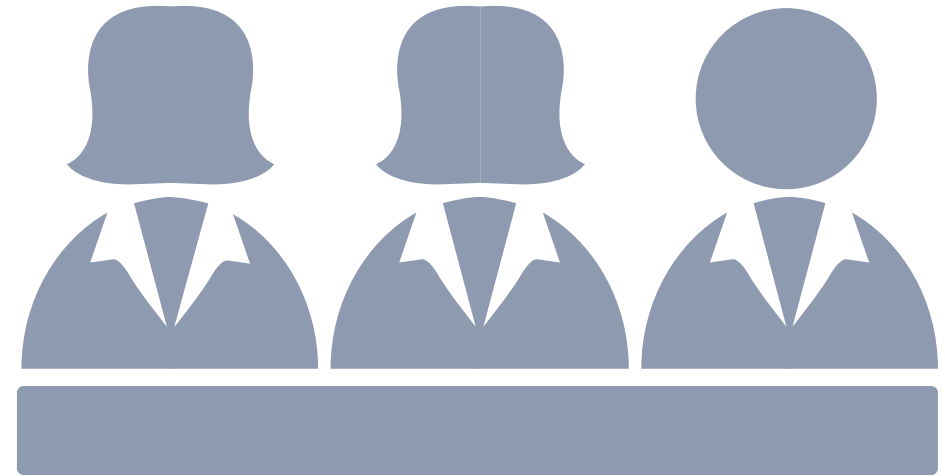


Anecdotal experiences of market participants around ease of trading and transaction costs



Review data on compliance monitoring activity and outcomes

## Discussion and Q&A session



Public hearing



Closing remarks



# Next steps



## Contact us

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### **Visit our website**

[Monitoring the NSW Biodiversity Credits Market](#)