

Summary of stakeholder workshops - Biodiversity Credits Market monitoring review

17 October 2024

Overview

The NSW Government has engaged IPART to monitor the performance of and competition within the biodiversity credits market for 3 years from 2022-23. As part of our second annual review, we held a series of 3 workshops with stakeholder groups:

	Date	Stakeholder group	No. of attendees
Workshop 1	24 September 2024	Credit buyers	~30
Workshop 2	26 September 2024	Third parties (accredited assessors, brokers etc)	~35
Workshop 3	27 September 2024	Credit sellers	~35

Each workshop commenced with an introduction by a Tribunal member, followed by short presentations by members of the IPART Secretariat on IPART's role, our focus areas for investigation, and an overview of the market in 2023-24. The presentation slides for each of the workshops are available on our [website](#).

This paper presents a summary of the key matters raised by stakeholders at each of the workshops.

Market information

Theme	Summary of discussion
Accessibility and ease of accessing market information	<ul style="list-style-type: none"> Stakeholders commented that market information is fragmented with key market datapoints spread across different registers – leading to a lack of clarity on overall market trends. Some stakeholders reflected that reconciling information across different datasets is challenging because of different naming conventions for credits across registers (for example – some Offset Trading Groups are spelled differently in different registers).
Transactions register and pricing data	<p>Related-party transactions</p> <ul style="list-style-type: none"> Stakeholders across all workshops felt that the credit transactions register should disclose which trades have occurred between known/related parties. Stakeholders noted that without this disclosure, pricing data can become skewed or unreliable.

- Some stakeholders commented that the presence of several below-market \$1 trades were likely related-party transactions. It was discussed that these trades brought down average credit prices and overall price expectations.
- Some stakeholders added that the Biodiversity Conservation Fund charge system should exclude related-party transactions when pricing credits, if and when that data becomes available.

Option deeds and dates

- Stakeholders commented that some buyers frequently use option deeds to purchase credits from sellers before their biodiversity stewardship sites have been established– and as a result, transactions for such credits can occur years after the prices have been negotiated.
- We heard from stakeholders that one of the reasons why transaction data is unreliable is because there is no disclosure of which trades have occurred through these option deeds. As a result, market participants have limited information about which trades have been negotiated under current versus historical market conditions – leading to difficulties in estimating current market prices.

Credit price averaging

- Stakeholders noted that some market trades are negotiated for several types of credits under one 'lump sum' price - and that the transaction data for each credit type reports the average lump sum price (which could be substantially different from market prices for each credits). Stakeholders referred to this as "credit price averaging", and reflected that that the inability to distinguish these trades caused difficulties in interpreting credit prices.
- Some stakeholders suggested that transactions negotiated under a lump sum agreement should be disclosed in the transactions register.

Total Fund Deposit contributions

- Reflecting that Total Fund Deposits can vary materially between different biodiversity stewardship sites (e.g. based on site size and location), some stakeholders called for transactions data to disclose a Total Fund Deposit component for each trade. (i.e., the percentage of a seller's Total Fund Deposit that is fulfilled by each trade).
 - Stakeholders felt this would allow them, as well as the Biodiversity Conservation Trust, to make more informed decisions about credit prices.

Unique identifier for credits

- Stakeholders commented that the lack of a unique identification number for each credit creates challenges in tracking for credit transaction and retirement numbers, and managing credit portfolios.
- Stakeholders also felt that without unique identifiers for credits, tracing which credits on supply registers have already been purchased or contracted to purchase (i.e., understanding actual available supply is challenging without having unique identifiers).

Demand register

- Some stakeholders noted that demand registers do not provide a full picture of wanted credits in the market, because they are not actually used by developers. Stakeholders commented that the process of listing credits on the demand register is lengthy and onerous, and developers may not wish to register their demand until they have certainty of exact credit requirements.
- Stakeholders agreed that a more comprehensive demand register could help to encourage market transactions over payments into the Biodiversity Conservation Fund.

Supply register

- Many stakeholders reflected that the supply register doesn't report on which credits have already been contracted for purchase (i.e., credits which landholders have already committed to selling other parties). We heard from stakeholders that identifying which credits are available for purchase is a confusing and lengthy process.

Biodiversity Conservation Fund charges

- We heard from stakeholders that there were several issues pertaining to the Biodiversity Conservation Fund ('Fund') data:
 - Fund charges are published under a 6-9 month time lag, causing credits sellers to have incomplete information on current prices. Credits sellers felt that this information asymmetry gave development proponents an unfair market advantage.
 - Fund charges are published without the inclusion of the risk factor and processing fee that are charged to the development proponent making the payment. Stakeholders felt that this resulted in market participants having falsely lower price expectations.
- Many stakeholders called for increased transparency in published Fund charges.

Transaction costs and efficiency

Theme	Summary of discussion
Timeframes for credit transfers and retirements	<ul style="list-style-type: none"> • Developers under time constraints are disincentivised from directly participating in the scheme due to lengthy processing times for the purchase and retirement of credits. • Stakeholders suggested that the timeframe for direct purchases and acquittals needs to be faster than transferring obligations to the Biodiversity Conservation Trust in order to incentivise direct market participation. • We heard that developers are often not certain of their offset obligations until the later stages of their planning and are therefore more likely to pay into the fund due to time constraints.
Timeframes for stewardship site establishment	<ul style="list-style-type: none"> • We heard from stakeholders that lengthy stewardship site establishment times is a barrier to entry and makes market trading less efficient.
Timeframes for credit transfers and retirements	<ul style="list-style-type: none"> • Several stakeholders commented that credit transfer and retirement processes were lengthy (approx. 6-8 weeks each), and this added to the administrative and cost burden of buying credits directly from the market versus making payments into the Biodiversity Conservation Fund. • We also heard that credit transfer and retirement forms were manual, time intensive, and administratively complex.
Transaction fees	<ul style="list-style-type: none"> • Stakeholders told us that the administration fee that applies to the credit holder to transfer or retire credits was an additional cost burden that affected potential profits. We heard a suggestion that the option for a single step to transfer and retire credits would also save on transaction costs. • Some stakeholders questioned whether this cost could be reduced with the introduction of a digital or more streamlined trading platform.

Government entities and their operations in the market

Theme	Summary of discussion
Biodiversity Conservation Trust - Biodiversity Conservation Fund pay-in	<ul style="list-style-type: none"> • We heard that the Biodiversity Conservation Fund's pay-in option is disincentivising proponents from purchasing credits directly from the market. This is due to lower costs, shorter timeframes to fulfill obligations, and less administrative burden for developers. • Stakeholders suggested that the Biodiversity Conservation Fund pay-in calculation should incorporate an element of opportunity cost for landholders – as this opportunity cost is informing landholders pursuing a Biodiversity Stewardship Agreement. • We heard that developers are willing to pay more for the option to pay into the Fund because of the significantly shorter transaction times compared with purchasing credits in the market.

Biodiversity Conservation Trust

- Stakeholders believed that the Biodiversity Conservation Trust's influence in the market had the overall effect of lowering credit prices. They argued that the Biodiversity Conservation Fund's current pay-in price and their growing offset obligations led to lower credit sale prices in the market – potentially lower than cost base for landholders directly transacting in the market.
- Stakeholders called for the Trust to set time frames for the acquittal of its obligations. They suggested this would reduce a growing backlog of obligations and minimise any discrepancy from the obligations pay-in price to the current market price.
- Some stakeholders see an ongoing role for the Trust to fulfill the obligations of developers, particularly small-scale development requiring low amounts of credits.

Credits Supply Fund – support for BSA applications

- We heard that the Supply Fund initially entered into agreements that required landholders to reimburse the Supply Fund for the upfront costs of establishing a BSA but have subsequently decided to waive this requirement for some landholders. Stakeholders are concerned that this has created inequity amongst suppliers and allowed some credit sellers to accept artificially low prices.

Credits Supply Fund - reverse auctions

- Some credits sellers and third-parties felt that buyers participating in the Credits Supply Fund's reverse auctions had unrealistically low price expectations. Stakeholders referred to the low proportion of successful reverse auction trades as evidence of mismatched price expectations.
- Stakeholders would like more pricing feedback from the Credits Supply Fund around unsuccessful reverse auction bids. Some stakeholders reported participating in multiple reverse auction processes only to receive feedback that their bid was not value for money. Some stakeholders indicated that they are still trying to sell credits but without understanding how far away they are from 'value for money' they feel it is a waste of their time to continue to participate.
- Some sellers believed that the absence of negotiation within reverse auctions disadvantages them.
- We heard that the binding nature of offers to reverse auctions, meaning sellers have to take their credits off the market until they are advised of the outcome, also led to unfair outcomes when developers seeking to buy credits through the Supply Fund do not enter similar binding agreements to do so.
- Stakeholders suggested that credit buyers were interacting with the Credits Supply Fund as a market sounding exercise – leading suppliers to question their time and resources used to apply to reverse auctions.
- There was concern that the Credits Supply Fund was indicating to developers that the reverse auctions would deliver the cheapest credit prices and should be developers preferred option for purchase. Some stakeholders felt that the auction process does little to deliver prices that would be mutually acceptable to buyers and sellers.

Demand, supply and pricing

Theme**Summary of discussion****Challenges in estimating market prices**

- Many stakeholders, across all sessions, reflected on difficulties and inaccuracies in estimating market prices for credits because of the unreliability of market information sources.
- Stakeholders noted that this is a major issue when estimating appropriate market prices to purchase credits, and when valuing their credit portfolios.
- The following issues were raised in relation to credit transaction data:
 - There is no disclosure of which trades are related-party trades. There are several below-market \$1 trades that falsely bring down average prices.
 - There is no disclosure of which trades have resulted from option deeds, including when those deeds were entered into.

- There is no disclosure of which trades have occurred under a lump sum credit purchase agreement.

Total Fund Deposit discount rate

- One stakeholder expressed that the Total Fund Deposit discount rate was lower than current long-term government bond rates, resulting in increasing costs of credit generation and consequently, credit prices.

Market governance and oversight

Theme	Summary of discussion
Licensing of brokers	<ul style="list-style-type: none"> • Many stakeholders commented that brokers play an important and necessary role in the market because of its complexity, lack of adequate information and difficulty in pricing credits. • Some stakeholders claimed that brokers have been seen to sell their own credits, or take margins from both buyers and sellers in a transaction • It was suggested that the Department should begin licensing brokers to operate in the market. • We heard that accredited assessors and ecological consultants to credit suppliers often adopt a broker role for their clients due to lack of information and a perceived shortage of brokers in the market.

Other issues

Theme	Summary of discussion
Transition from BioBanking scheme	<ul style="list-style-type: none"> • Stakeholders told us that the pricing of credits owned by suppliers under the previous BioBanking scheme had been adversely affected in the transition to the current Biodiversity Offsets Scheme. • We heard a suggestion that BioBanking credits should be converted to Biodiversity Offset Credits and that all credits – whether generated under the BioBanking or Biodiversity Offset Scheme's – should be transferred or retired under one register.
Active regeneration	<ul style="list-style-type: none"> • A stakeholder told us that that suppliers are disincentivised from generating credits through active regeneration of land. . • We heard that landholders are further discouraged from active regeneration due to cleared land being of higher economic value than bushland. • It was suggested that government entities should put mechanisms in place to incentivise active regeneration
Landholder support	<ul style="list-style-type: none"> • We heard that landholders lacked adequate technical support and information to put in appropriate tenders, leading to the need for a consultant. • Some stakeholders called for face-to-face workshops, information sessions or other support networks for landholders.
Capital Gains Tax	<ul style="list-style-type: none"> • Stakeholders reflected that the up-front capital gains tax liability was a significant barrier to setting up a Biodiversity Stewardship Agreement.
Holding Trust for market transactions	<ul style="list-style-type: none"> • Stakeholders noted that there was no mechanism in place to hold funds in trust after a direct market trade has been negotiated.