

PRIVATE CONSERVATION WORKSHOP
ENVIRONMENTAL DEFENDERS OFFICE NORTHERN RIVERS
CORAMBA 3 MAY 2011



about the EDO

“To promote the public interest and improve environmental outcomes through the informed use of the law”

- legal advice and litigation
- policy and law reform
- community education
- scientific assessment and advice



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ecologically sustainable development

"...development that meets the needs of present generations while not compromising the needs of future generations to meet their needs."

- the precautionary principle
- inter-generational equity
- conservation of biological diversity
- improved valuation, pricing and incentive mechanisms ("polluter pays")



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program

- 9.30 introduction
- 10.00 legal and financial issues
- 10.45 morning tea
- 11.00 conservation options
 - in perpetuity Conservation Agreements (OEH, NCT)
 - short-term or non-binding (CMA)
- 12.30 offsetting schemes
 - biobanking
 - Carbon Farming Initiative (CHCC)
- 1.15 lunch
- 1.45 field visit - Nana Glen



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why conservation?

- Australia
 - one of 6 "megadiverse" regions in world
 - >70% endemic species
 - world's worst extinction record
 - 27
 - 1500
 - 3000


QuickTime™ and a decompressor are needed to see this picture.



threats to biodiversity

- land clearing
- fragmentation
- degradation
- development
- bushfires
- feral animals
- climate change




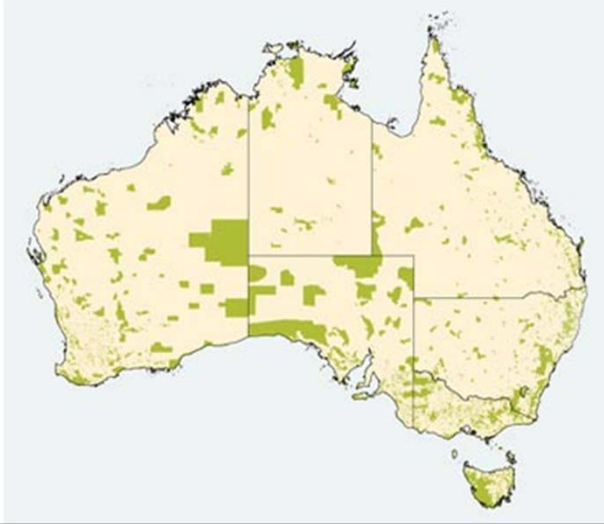


national reserve system

“comprehensive, adequate and representative”

15%?


9000 reserves
89-125 million ha
11% of landmass



why private conservation?


- for the public
 - majority of biodiversity on private property
 - cost-effective
 - management advantages
- for landholders
 - improved conservation/biodiversity
 - financial + management assistance
 - recognition of efforts and land status






nsw

- **Public land managed for conservation**
 - around 8% in national parks & nature reserves
- **Private land managed for conservation**
 - Conservation Agreements (DECCW) - 242, 23,074 ha
 - Covenants (NCT) - 26, 4,200 ha
 - Wildlife refuges (DECCW) - 641, 1,934,291 ha
 - Land for Wildlife (CEN/DECCW) - 620, 55,000 ha
 - Property Vegetation Plans (conservation or clearing) (CMAs) - 326
 - Wildlife Land Trust sanctuaries (HSI) - 33 (4.4 mm ha worldwide)
 - Bush Heritage Australia - 31, 946,000 ha
 - Australian Wildlife Conservancy - 15, 1.1 m ha
 - NCT Revolving Fund - 12, 10,535 ha
 - Crown Land conservation covenants - ?
 - Biobanking agreements - 1




GlobeTrotter™ and a
disclaimer
are needed to see this picture.



layers of legal protection

	hard law	soft law
international	Convention on Biological Diversity Ramsar Convention	Earth Charter
national	EPBC Act	Biodiversity Conservation Strategy
state	EPA Act TSC Act	FNC Regional Conservation Plan
local	LEPs	DCPs





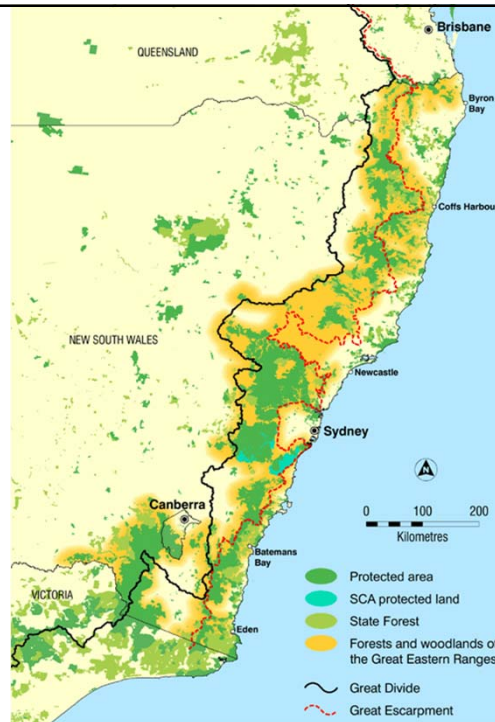
great eastern ranges initiative

'A bold plan to strengthen the resilience of eastern Australia's mountainous ecosystems so they can better respond to the impacts and threats from:

- climate change
- development activities, including ongoing growth in our population
- invasion by introduced pests and weeds.'

QuickTime™ and a decompressor are needed to see this picture.

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private conservation law

- **hard law options – legally binding agreements/ covenants + legally enforceable obligations arise**
 - Voluntary Conservation Agreement (CAs) - DECCW
 - Trust Agreements (TAs) - NCT
 - PVPs
- **soft law options – not legally binding + no legal obligations arise**
 - Wildlife Refuge Agreements
 - Land For Wildlife



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what is a conservation covenant?

- a formal agreement or promise in a deed or under seal
- an agreement is a completed negotiation
- a contract is a legally binding promise or agreement



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parties to the agreement

- landholder/s
AND
- Minister for the Environment or
- Nature Conservation Trust or
- relevant Minister administering the statute under which the Agreement is provided (PVP)



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agreements/covenants

- run with the land
- last in perpetuity: what is legal perpetuity?
- bind successors in title
- can be varied by subsequent agreement
- can't be overridden by planning law



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legally enforceable

- enforceable in the Land + Environment Court in its Class 4 jurisdiction of civil enforcement
- damages only awarded in cases that involve intentional or reckless breach



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the fine print

- closely consider the terms and conditions of your Agreement and any associated binding document – such as a Plan of Management – eg
 - obligations to fence to keep livestock out
 - weeding + fire regimes
 - tenancy
 - mortgage



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part or all?

- agreement/covenant on title but conservation area defined in agreement



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getting legal help

- EDO/PILCH pro bono referral service



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financial issues

- tax concessions
 - NSW land tax
 - council rates
 - Capital Gains Tax
 - income tax deductions
- funding on-ground works
 - Private Land Conservation Grants Program
 - other sources



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conservation agreements (oeh)

- conservation covenant
- legally binding on you and future landowners
- strong and everlasting legal protection for the conservation value of your land
- small incentive grants
- tax incentives
- can be changed by mutual agreement
- complex and lengthy to establish



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conservation agreements (nct)

- legally binding on you and future landowners
- strong and everlasting legal protection for the natural features of your land
- some incentive funding
- management advice and strong landholder support
- complex to establish
- inflexible once established



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other agreements

short-term or non-binding

- Land for Wildlife (Community Environment Network)
- Wildlife Refuges (OEH)
- Landholder Management Agreements (CMA)
 - Conservation (or Incentive) Property Vegetation Plans (CMA)
- Environmental Stewardship (Caring for our Country)



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ecosystem services

'...the transformation of a set of natural assets (soil, plants and animals, air and water) into things that we value.'

- examples
 - BioBanking
 - carbon offsets



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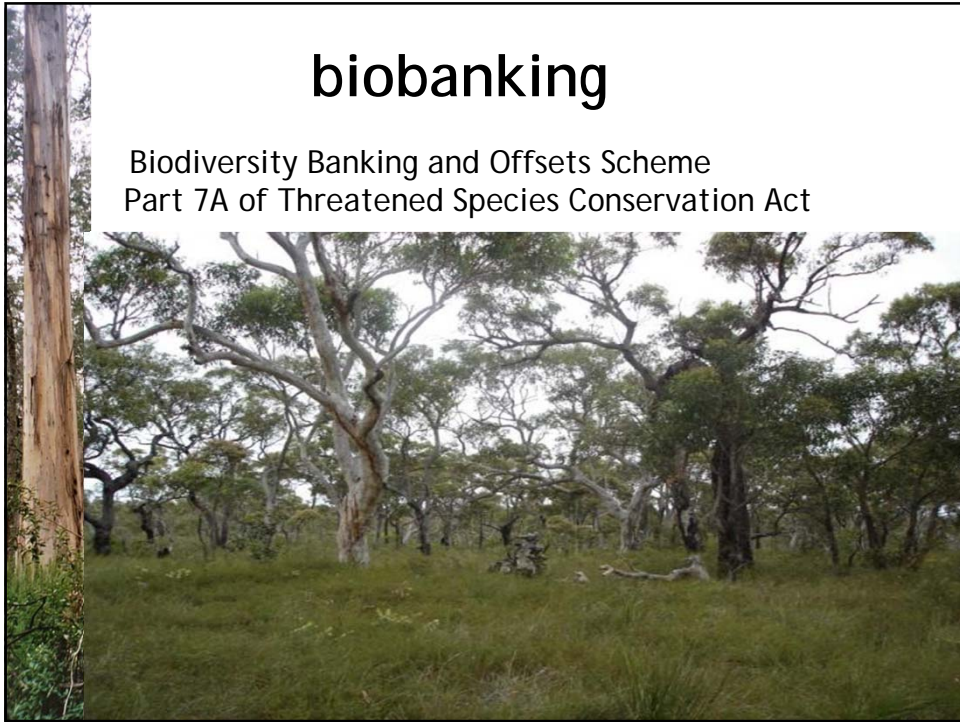
biodiversity offsets

"...conservation actions intended to compensate for the residual, unavoidable harm to biodiversity caused by development projects, so as to ensure no net loss of biodiversity.

Before developers contemplate biodiversity offsets, they should have first sought to avoid and minimise harm to biodiversity."

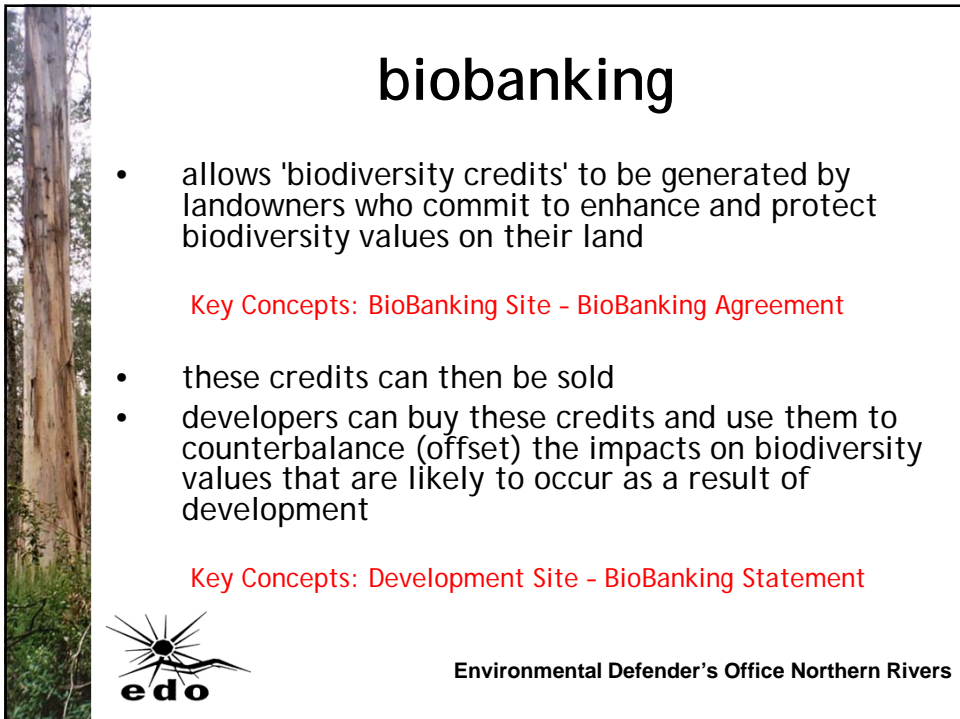


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biobanking

Biodiversity Banking and Offsets Scheme
Part 7A of Threatened Species Conservation Act



biobanking

- allows 'biodiversity credits' to be generated by landowners who commit to enhance and protect biodiversity values on their land
- these credits can then be sold
- developers can buy these credits and use them to counterbalance (offset) the impacts on biodiversity values that are likely to occur as a result of development

Key Concepts: BioBanking Site - BioBanking Agreement

Key Concepts: Development Site - BioBanking Statement



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\$ value of biodiversity

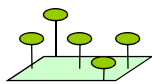
- 'biodiversity values' include composition, structure and function of ecosystems and includes threatened species, populations and ecological communities, and their habitats.



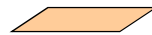
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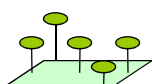
overview



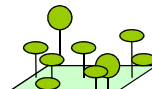
Development site –
Current biodiversity value = **50** credits



Loss in biodiversity values
Future biodiversity value = **0** credits
Credits required to offset = **50** credits
= **biobanking statement**



Biobank (offset) site –
Current biodiversity value = **50** credits



Gain in biodiversity values
Future biodiversity value = **60** credits
Credits created = **10** credits
= **biobanking agreement**





biobank sites

- can be established on land subject to a conservation agreement
- only for management actions that are additional to any actions already required under a TA or a CA



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tax implications

- BioBanking Agreement = conservation agreement
- Capital Gains Tax event



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the only one so far...

- the biobank site: 80 hectares of native vegetation near Camden including 36 hectares of critically endangered Cumberland Plain Woodland
- the payoff: \$1.7 million for 607 ecosystem credits*
- the development sites: specified in Growth Centres SEPP
- the future: 5 other biobanking sites currently being assessed, 37 other "expressions of interest" received



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more information

Environment, Climate Change & Water NSW

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Nature conservation

- BioBanking
 - Framework
 - Assessment tools
 - BioBanking assessors
 - Information for participants
 - BioBanking trust fund
 - Public register
 - Forms
 - Scheme development
 - Glossary

You are here: [Home](#) > [BioBanking](#)

BioBanking

[Proposed changes to the BioBanking assessment methodology](#) - on public exhibition until 19 November 2010

The conservation of our endangered animals, plants and ecosystems is one of the greatest environmental challenges facing Australia today. The key reason for the historically high extinction rate of these animals, plants and ecosystems is habitat degradation and loss, initially from over-grazing and clearing for agriculture, and more recently from the clearing of native vegetation for urban development.

The NSW Government has introduced the Biodiversity Banking and Offsets Scheme (or 'BioBanking') to help address the loss of biodiversity values, including threatened species.

BioBanking: What's in it for you?

- [Landowners](#)
- [Developers](#)
- [Conservationists](#)


What is BioBanking?

BioBanking is a market-based scheme that provides a streamlined biodiversity assessment process for development, a rigorous and credible offsetting scheme as well as an opportunity for rural landowners to generate income by managing land for conservation.

BioBanking enables 'biodiversity credits' to be generated by landowners who commit to enhance and protect biodiversity values on their land through a biobanking agreement. These credits can then be sold, generating funds for the management of the site. Credits can be used to counterbalance (or offset) the impacts on biodiversity values that are likely to occur as a result of development. The credits can also be sold to those seeking to invest in conservation outcomes, including philanthropic organisations and government.

For a general guide to the scheme and how it works, download the [BioBanking Scheme Overview](#) (biobankingoverview07528.pdf, 686 KB) and [The Science behind BioBanking](#) (09476biobankingscience.pdf, 841KB).

expressions of interest



Environment, Climate Change & Water

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You are here: Home > Biobanking > BioBanking public register > BioBanking agreements

Search results


Your search for: **CMA region - Northern Rivers**

matched 16 biobank site expressions of interest

To view the details relating to an EOI record please click on the EOI ID hyperlink

EOI ID	Landowner ID/name	CMA subregion	LGA	Veg formation	Area (ha)
EOI - 4	5	Clarence Lowlands	Richmond Valley Council	Rainforests & others	95.0
EOI - 6	8	Macleay Hastings - Northern Rivers	Port Macquarie-Hastings Council	Wet sclerophyll forests (shrubby) & others	135.0
EOI - 7	9	Clarence Sandstones	Clarence Valley Council	Grassy woodlands & others	90.0
EOI - 8	10	Woodenbong	Tenterfield Shire Council	Dry sclerophyll forests (shrub/grass)	40.0
EOI - 12	14	Clarence Lowlands	Clarence Valley Council	Wet sclerophyll forests (shrubby) & others	650.0
EOI - 17	Biodiversity Land Pty Ltd	Clarence Lowlands	Clarence Valley Council	Dry sclerophyll forests (shrubby) & others	1,569.0
EOI - 24	24	Richmond - Tweed (Qld - Scenic Rim) (Part A)	Byron Shire Council	Rainforests	1.5
EOI - 25	25	Murwillumbah (Qld - Southeast Hills and Ranges)	Tweed Shire Council	Wet sclerophyll forests (grassy) & others	40.0
EOI - 29	30	Coffs Coast & Escarpment	Coffs Harbour City Council	Wet sclerophyll forests (shrubby) & others	50.0
EOI - 31	33	Richmond - Tweed (Qld - Scenic Rim) (Part A)	Lismore City Council	Rainforests & others	50.0
EOI - 41	45	Clarence Lowlands	Clarence Valley Council	Dry sclerophyll forests (shrub/grass) & others	400.0
EOI - 42	46	Macleay Hastings - Northern Rivers	Port Macquarie-Hastings Council	Forested wetlands & others	70.0
EOI - 44	49	Clarence Lowlands	Clarence Valley Council	Forested wetlands & others	120.0
EOI - 45	50	Chaelundi	Coffs Harbour City Council	Wet sclerophyll forests (shrubby) & others	100.0
EOI - 48	Coastmont Investments Pty Ltd	Clarence Sandstones	Clarence Valley Council	Dry sclerophyll forests (shrub/grass)	15.0
EOI - 50	BRYQUAFF Pty Ltd ATF Arran Holdings Trust	Macleay Hastings - Northern Rivers	Armidale Dumaresq Council	Grassy woodlands & others	190.0

carbon offsets



edo

QuickTime™ and a



the potential

"...the Australian landscape has the biophysical potential to store an additional 1,000 million tonnes of CO₂e in soils and vegetation for each year of the next 40 years. If Australia were to capture just 15% of this biophysical capacity, it would offset the equivalent of 25% of Australia's current annual greenhouse emissions for the next 40 years."



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mechanisms

current

- carbon sink forest tax incentives
 - like Managed Investment Schemes
- voluntary carbon market
 - renewable energy, trees, soil, landfill methane
 - eg Greenfleet, Landcare CarbonSmart
 - regulated by National Carbon Offset Standard

future

- Australian carbon price
- Australia counts land use changes including soils (Kyoto 3.4)
- Carbon Farming Initiative



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voluntary offsets

www.carbonoffsetguide.com.au

- Example: Greenfleet
 - 6 million trees since 1997
 - 1.6 million tonnes CO2
 - = 400,000 cars off road for 1 year
 - = 269 kg CO2 per ha (over lifespan)
 - \$11-20 per tonne CO2



Carbon Offset Guide Australia
helping you find and choose carbon offsets

Home About About Us Search For Providers Register Feedback

Search For Providers

Provider Type: Available Amount: Price per tonne: Project Location:

Provider	Provider Type	Project(s) Description(s)	Price	Available Amount	Project Location
AFR Technology			\$11.000	100	Australia
Air Climate			\$11.000	100	Australia
AquaCarbon			\$11.000	100	Australia
Australian Carbon Project			\$11.000	100	Australia
Balanced Carbon			\$11.000	100	Australia
Biodigester			\$11.000	100	Australia
Canopy			\$11.000	100	Australia
Carbon Connective			\$11.000	100	Australia
Carbon Hub			\$11.000	100	Australia
Carbon Neutral			\$11.000	100	Australia
Carbon Planet			\$11.000	100	Australia
Carbon Point			\$11.000	100	Australia
Carbon Store			\$11.000	100	Australia
CO2 Australia			\$11.000	100	Australia
Commonwealth Carbon Exchange			\$11.000	100	Australia
ClimatePartner			\$11.000	100	Australia
Climate M&P			\$11.000	100	Australia
Global Carbon Exchange			\$11.000	100	Australia
Green 40			\$11.000	100	Australia
GreenHub			\$11.000	100	Australia
Greening Australia			\$11.000	100	Australia
Greening Australia			\$11.000	100	Australia
Landmark Carbon Offset			\$11.000	100	Australia
Other Providers			\$11.000	100	Australia
Reserve Group			\$11.000	100	Australia
The Living Tree Project (J&F and Reserve Australia)			\$11.000	100	Australia
Treecology			\$11.000	100	Australia

carbon farming initiative

- announced in 2010 Federal election campaign to “unlock the abatement opportunities in the land sector which currently makes up 23 percent of Australia’s emissions”
- market could be worth \$50 million per year
- storing an extra 250 million tonnes of carbon by 2020

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what does the cfi do?

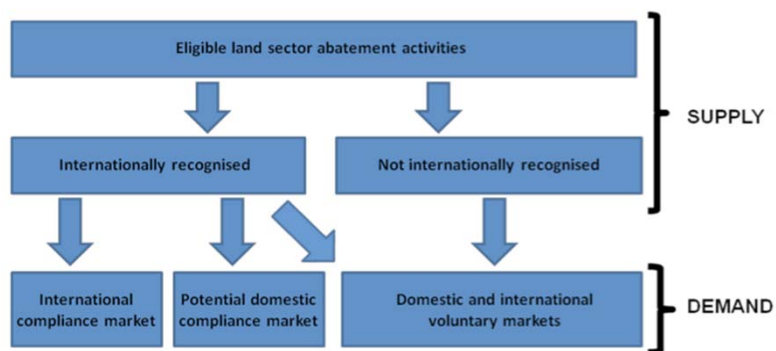
- introduces legislation to establish a carbon crediting mechanism
- develops methodologies for offset projects
- provides information and tools to help farmers and landholders



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markets





coverage

- reforestation and revegetation
- reduced methane emissions from livestock
- reduced fertiliser emissions
- manure management
- soil carbon
- savanna fire management
- avoided deforestation
- burning of stubble/crop residue
- reduced emissions from rice cultivation and landfill waste



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carbon farming issues

- additionality
- permanency
- accreditation (NCOS)
- leakage (net carbon sequestration gain/loss)
- biodiversity impacts
- reducing land for food production



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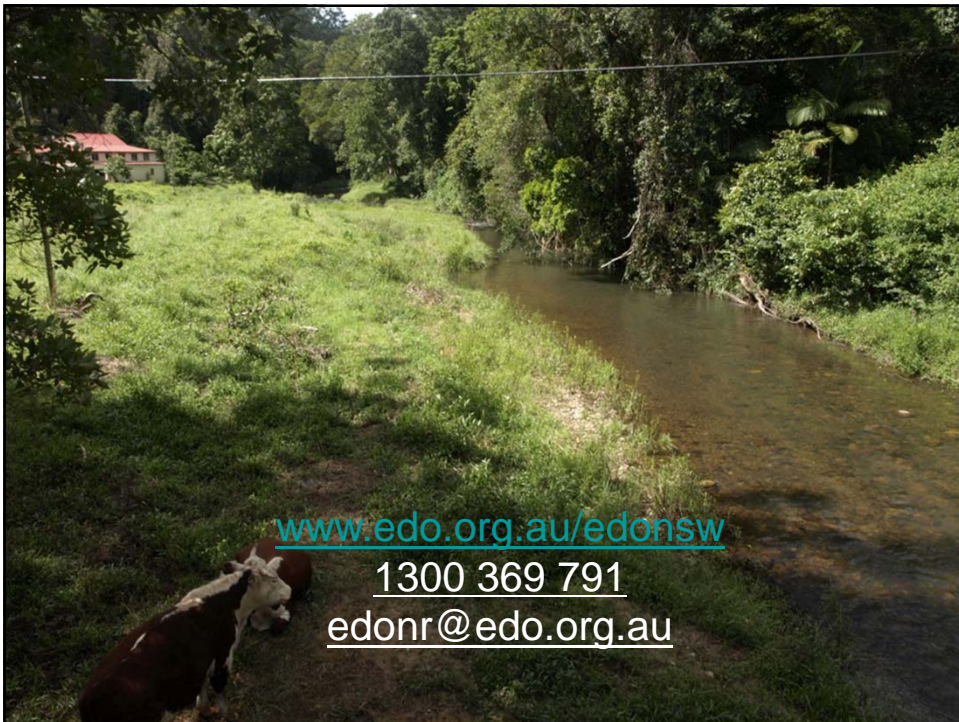


objects of the bill

- to implement Australia's obligations under the UNFCCC and Kyoto Protocol
- "to create incentives for people to carry on certain offset projects"
- "to increase carbon abatement... consistent with the protection of Australia's natural heritage" and improving "resilience to the effects of climate change"



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www.edo.org.au/edonsw

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