



Review of Part 5A *National Parks and Wildlife Act* 1974

Department of Climate Change,
Energy, the Environment and Water



Acknowledgement of Country

Department of Climate Change, Energy, the Environment and Water acknowledges the Traditional Custodians of the lands where we work and live.

We pay our respects to Elders past, present and emerging.

This resource may contain images or names of deceased persons in photographs or historical content.

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Artist and designer Nikita Ridgeway from Aboriginal design agency Boss Lady Creative Designs created the People and Community symbol.

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Preamble

Part 5A of the *National Parks and Wildlife Act 1974* (NPW Act) commenced on 8 December 2021.

This report satisfies the requirement of section 82C of the NPW Act for Part 5A to be reviewed.

A report on the outcome of the review must be tabled to the NSW Parliament by 8 December 2024.

Summary

Background

The *National Parks and Wildlife Act 1974* (NPW Act) was amended in 2021 for various purposes, including the addition of a new Part 5A (Appendix A). This new Part contained provisions empowering the Minister for the Environment to create and deal with carbon sequestration rights on land acquired, reserved or dedicated under the NPW Act (except for Aboriginal-owned parks under Part 4A of the NPW Act).

The review

Section 82C of the NPW Act requires the Minister for the Environment to review Part 5A of the NPW Act to determine whether:

- the policy objectives of the Part remain valid
- the terms of the Part remain appropriate for securing the objectives.

The review must be undertaken as soon as possible after the period of 2 years from the commencement of Part 5A. A report on the outcome of the review must then be tabled in each House of Parliament within 12 months after the end of the period of 2 years (that is, by 8 December 2024).

This review has been conducted by the NSW National Parks and Wildlife Service (NPWS), which is part of the NSW Department of Climate Change, Energy, Environment and Water.

Key findings

This review concludes that:

- the policy objectives underpinning Part 5A of the NPW Act remain valid
- the provisions of Part 5A remain appropriate for achieving those objectives.

Importantly, as evidenced by on-ground NPWS projects that are restoring landscapes and native vegetation cover (Appendix B), the provisions ensure that the carbon sequestration functions of Part 5A are only exercised if consistent with the overall objects of the NPW Act (which address the conservation of biodiversity and cultural heritage, and fostering public appreciation of these values).

The review also notes that carbon sequestration mechanisms are still a relatively recent and evolving feature of Australian and NSW government efforts to address climate change. The Part 5A provisions of the NPW Act will therefore remain under ongoing review to identify whether potential amendments may be required to improve available carbon sequestration mechanisms on lands within the NSW national parks estate.

1. Purpose of this review

Section 82C of the *National Parks and Wildlife Act 1974* (NPW Act) requires Part 5A of the NPW Act to be reviewed and the outcomes to be tabled by 8 December 2024.

The review of Part 5A of the NPW Act must consider:

- whether the policy objectives of Part 5A remain valid
- whether the terms of Part 5A remain appropriate for securing the objectives.

Scope

The review is limited to the provisions of Part 5A of the NPW Act.

The review does not examine the carbon sequestration provisions that apply to lands that are subject to Part 4A of the NPW Act (being Aboriginal-owned parks).

The review does not consider technical methods to calculate the quantum of carbon sequestered by particular land management actions, nor the rules for establishing and trading carbon credits from such actions. Relevant statutory arrangements are included in the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth) and other legislation, separate from the provisions of Part 5A of the NPW Act.

Approach

This review has been informed by a desk-top review of relevant and current NSW and Australian government climate change mitigation and adaptation policies, strategies and programs.

There is no statutory requirement to publicly consult on or exhibit the review before it is tabled in parliament. Given the limited and technical nature of the provisions of Part 5A, and that they have only been operational for a short period, public consultation was not considered necessary to achieve the intent of the review process.

Once the review report is tabled in parliament, it will be published on the NSW Department of Climate Change, Energy, the Environment and Water website.

2. Objectives of Part 5A

The primary objectives of introducing Part 5A into the NPW Act were to:

- give effect to NSW Government and NSW National Parks and Wildlife Service (NPWS) commitments to achieve a carbon-positive outcome in the management of national parks, by supporting actions to increase carbon sequestration so long as these are consistent with the objects of the NPW Act
- recognise the broad range of park management activities that may generate carbon benefits, including revegetation, vegetation management, improvements in soil carbon, the management of feral animals, fire management, carbon sequestered through land-use changes or rehabilitation, and human-induced regeneration
- support opportunities to integrate actions in the national parks estate to address the joint challenges of climate change and biodiversity loss
- provide certainty in relation to NPWS's participation in carbon markets, such as the Australian Government's Australian Carbon Credit Unit (ACCU) Scheme.

3. Terms of Part 5A

Part 5A of the NPW Act contains 3 sections (refer to Appendix A).

- Section 82A provides relevant definitions of the terms 'carbon sequestration' and 'carbon sequestration right'.
- Section 82B (in summary) provides that:
 - the minister may create and deal with carbon sequestration rights in the national parks estate (except for Aboriginal-owned parks under Part 4A of the NPW Act)
 - the minister may undertake activities incidental to or in connection with creating and dealing with carbon sequestration rights
 - those incidental activities include carbon benefits arising from revegetation, vegetation management, soil carbon improvements, feral animal management, fire management, carbon sequestered through land-use changes or rehabilitation, and human-induced regeneration
 - functions may only be exercised if consistent with the objects of the NPW Act (which include the conservation of biodiversity and ecosystems, conservation of cultural heritage, and fostering of public appreciation and enjoyment of nature and cultural heritage)
 - functions may not be exercised for certain types of parks that are managed by a trust or local council unless the minister has consulted with and considered advice provided by those bodies

- regulations may prescribe other functions or activities that the minister may exercise or take in relation to carbon sequestration rights.
- Section 82C sets out the requirements for review of Part 5A (the purpose of this current review).

4. Policy context

Australian Government

The Australian Government is a signatory to the *Paris agreement* on climate change and has a range of climate change response strategies and programs in place.

Of relevance to this current review, the Australian Carbon Credit Unit (ACCU) Scheme incentivises carbon abatement activities through projects that reduce emissions or store carbon, ranging from reforestation to energy efficiency. Projects may qualify to participate in the scheme, for example, by:

- using new technology
- upgrading equipment
- changing business practices to improve productivity or energy use
- changing the way vegetation is managed.

The ACCU Scheme establishes approved methods for calculating the emission reductions from eligible activities. One ACCU represents one tonne of carbon dioxide equivalent that would have otherwise been released into the atmosphere. ACCUs are a tradable financial product.

New ideas for methods, or changes to existing methods, are considered by the Emissions Reduction Assurance Committee, an independent statutory committee established under the Carbon Credits (Carbon Farming Initiative) Act (Cth). The committee was re-established following an independent review of the ACCU Scheme, which was undertaken to ensure ACCUs and the carbon crediting framework have a strong and credible reputation supported by participants, purchasers and the community. The review found the scheme was essentially sound and made 16 recommendations to ensure its integrity and to align with best practices. The Australian Government accepted each of the recommendations and published an implementation plan that sets out the approach and timing of reforms.

The Australian National Registry of Emissions Units tracks ownership and transactions of emissions units, including ACCUs. Organisations and individuals can own, transfer, cancel, deliver, surrender or relinquish ACCUs via the registry.

NSW Government

The NSW Government endorses the *Paris agreement* on climate change and is taking action that is consistent with the level of effort to achieve Australia's commitments to the agreement.

Whole-of-government

The *Climate Change (Net Zero Future) Act 2023* commits the NSW Parliament to effective action on climate change to ensure a sustainable and fair future for the people, economy and environment of New South Wales. It legislates targets to reduce emissions in New South Wales by 50% from 2005 levels by 2030, 70% from 2005 levels by 2035, and to net zero by 2050. It also establishes guiding principles for action to address climate change, an objective for the state to be more resilient to a changing climate, and an independent, expert Net Zero Commission to monitor and report on progress.

The *NSW Climate Change Policy Framework* outlines the government's long-term objectives to achieve net zero emissions by 2050 and to make New South Wales more resilient to a changing climate. It guides and directs a range of NSW Government policies and programs.

The *Net Zero Plan Stage 1: 2020–2030* (published 2020) outlines the NSW Government's action on climate change and goal to reach net zero emissions by 2050. The plan has 4 net zero priorities, including ensuring that the NSW Government leads by example in all areas of its operations. The plan committed to updating national parks legislation to ensure additions of land to the national parks estate can better access carbon funding to help revegetate and improve our carbon sinks. This commitment was delivered with the inclusion of Part 5A into the NPW Act in 2021.

National parks estate

National parks represent one of the largest carbon stores in New South Wales, covering over 10% of the state, equating to 40% of the total NSW forest carbon stock. Providing secure, long-term protection for these carbon stocks is a vital contribution to managing climate change risk.

NPWS Carbon positive by 2028 plan

NPWS has committed to becoming carbon-positive through its *Carbon positive by 2028 plan* (*Carbon positive plan* – published 2021). The plan outlines measures NPWS will take to remove more carbon dioxide from the atmosphere than it generates in its operations by 2028.

To achieve the 2028 target, NPWS will increase the carbon sequestration rate across NSW national parks with a range of activities, including:

- regenerating and restoring vegetation through feral animal control and other land management practices
- replanting of vegetation and potential improvements in soil carbon.

NPWS's *Carbon positive plan* includes an action to update the NPW Act to enable the creation and trade of carbon credit rights to protect and enhance carbon sinks. This was achieved with the 2021 amendment to the NPW Act to insert Part 5A (the subject of this current review).

NPWS ACCU Scheme projects

NPWS has carbon sequestration projects registered under the ACCU Scheme. Each carbon project is designed to enhance vegetation growth, achieve native forest regeneration and ensure that carbon sequestration is consistent with biodiversity conservation.

The native vegetation renewed by these projects in national parks captures and stores additional carbon in the landscape and generates ACCU carbon credits. In line with approved ACCU Scheme methods, NPWS's current projects involve (Appendix B):

- **human-induced regeneration** – encouraging natural regeneration of native forests through enhanced weed management and feral animal control at Koonaburra and Brindigabba national parks in north-west New South Wales
- **environmental planting** – undertaking strategic planting to establish native forests across a range of NSW national parks.

Current carbon sequestration projects in NSW national parks are summarised in Appendix B. Information is also publicly available on the Australian National Registry of Emissions Units.

ACCUs may either be sold to the Australian Government (consistent with the terms of NPWS's carbon abatement contract with the Australian Government), sold on the secondary market, or potentially retired to offset residual NPWS emissions from park management and operational activities (thereby assisting the NSW Government in meeting its net zero targets).

Consistent with section 138(1)(b)(ia) of the NPW Act, all money received from the creation of and dealing with carbon sequestration rights must be paid into the National Parks and Wildlife Fund (the fund). Money in the fund must be used in accordance with purposes set out in section 139 of the NPW Act, including costs associated with the management and improvement of the national parks estate and acquisition of lands for addition to the estate. In short, funds from the sale of carbon credits generated under Part 5A of the NPW Act are invested back into the national parks estate, supporting biodiversity conservation and other park management objectives, such as threatened species recovery.

NPWS Task Force on Climate-related Financial Disclosures statement

NPWS was one of the first agencies to deliver on the NSW Government's *Net Zero Plan Stage 1: 2020–2030* commitment to develop and publish a biennial climate change

impacts, risks and adaptation statement, consistent with the Task Force on Climate-related Financial Disclosures (TCFD).

The NPWS *Task Force on Climate-related Financial Disclosures (TCFD) statement*, published in 2022, sets out the economic, financial and physical impacts, risks and opportunities of climate change and planned future priorities for NPWS operations.

New standards have since been put in place. The NSW Government is now implementing mandatory climate disclosures at the portfolio level, rather than by individual agencies.

Other NSW initiatives in carbon sequestration

Actions are also being taken by the NSW Government in a range of additional areas in support of carbon sequestration initiatives. Examples include:

- The Primary Industries Productivity and Abatement Program is aimed at supporting farmers and land managers to optimise productivity, reduce emissions, access carbon markets and new market opportunities whilst improving climate resilience across regional New South Wales.
- The Review Panel for the *Independent review of the Biodiversity Conservation Act 2016* encouraged the NSW Government to explore emerging opportunities to support private and public sector investment in land restoration and conservation outcomes, including the role of credits generated by carbon sequestration projects. The *NSW plan for nature* sets out the NSW Government response to that review, including a commitment to work with the Australian Government on the development of the national nature repair market and national carbon market, and design NSW natural capital programs and projects to leverage national schemes.

5. Key findings and recommendations

The policy objectives of Part 5A remain valid

This review finds that the policy objectives that underpinned the introduction of Part 5A into the NPW Act in 2021 (refer to section 2 of this report) continue to be valid. That is, to:

- achieve carbon-positive outcomes in the management of national parks
- recognise the broad range of park management activities that deliver carbon benefits
- support opportunities to address the joint challenges of climate change and biodiversity loss
- provide certainty to participate in the carbon market.

The objectives are consistent with legislation, namely the Climate Change (Net Zero Future) Act; consistent with NSW Government policy, including the *Net Zero Plan Stage 1: 2020–2030*; and support the ability of NPWS to participate in the Australian Carbon Credit Unit (ACCU) Scheme.

While efforts and approaches to tackle climate change across all sectors have gained pace, and new innovative approaches continue to emerge, the policy objectives of Part 5A remain robust and appropriate. This is particularly with respect to supporting opportunities to integrate actions in the national parks estate to confront the intertwined challenges of climate change and loss of biodiversity.

In short, the foundational objectives of Part 5A, together with the specific provisions of Part 5A, enhance the capacity of national park management to contribute to climate change mitigation while also protecting and restoring biodiversity. Importantly, this is consistent with the critical requirement under section 82B(4) of the NPW Act that functions related to the carbon sequestration provisions of Part 5A only be exercised if doing so would be consistent with the overall objects of the NPW Act.

The terms of Part 5A remain appropriate for securing the objectives

As set out above, the provisions of Part 5A variously define key terms, establish the minister's powers to create and deal with carbon sequestration rights in the national parks estate, confirm the park management activities that may provide a carbon benefit, and reaffirm that functions to create and deal with such rights must be consistent with the objects of the NPW Act.

This review finds that the provisions set out in Part 5A of the NPW Act remain appropriate to achieve the policy objectives and underlying intent of the 2021 decision of the NSW Parliament to introduce Part 5A into the NPW Act (Table 1). Since that time, the provisions have supported continued delivery of on-ground carbon sequestration projects by NPWS (Appendix B), by providing statutory certainty about the ability to create and deal with carbon sequestration rights in relation to lands within the national parks estate. These projects contribute to NSW Government objectives towards a carbon-positive management outcome for national parks.

Similarly, that statutory certainty has facilitated ongoing NPWS participation in the Australian Government's ACCU Scheme. In turn, NPWS's ACCU registered projects will generate carbon credits that can be sold, with funds then reinvested in further on-ground actions that deliver additional priority outcomes for biodiversity and climate change.

The provisions of Part 5A therefore continue to support additional carbon sequestration projects in national parks that are currently in the planning stages and will be implemented in coming years.

Table 1 Part 5A objectives supported by the terms of Part 5A

Objectives of Part 5A	Terms of Part 5A that support the objectives
Give effect to NSW Government and NPWS commitments to achieve a carbon-positive outcome in the management of national parks, by supporting actions to increase carbon sequestration so long as these are consistent with the objects of the NPW Act.	Section 82B(1) Section 82B(2) Section 82B(4)
Recognise the broad range of park management activities that may generate carbon benefits, including revegetation, vegetation management, improvements in soil carbon, the management of feral animals, fire management, carbon sequestered through land-use changes or rehabilitation, and human-induced regeneration.	Section 82B(3)
Support opportunities to integrate actions in the national parks estate to confront the joint challenges of climate change and biodiversity loss.	Section 82B(4)
Provide certainty in relation to NPWS’s participation in carbon markets, such as the Australian Government’s Australian Carbon Credit Unit (ACCU) scheme.	Section 82A Section 82B(1) to (4) Section 82B(6)

Potential improvements

Currently, no specific, immediate amendments are recommended to the provisions of Part 5A of the NPW Act. Minor amendments will be made via a future routine legislative update to remove section 82C, as it will be obsolete with the completion of this review.

However, recognising the continually evolving field of climate change action, and the mounting evidence of rapid climate change, the provisions of Part 5A will remain under ongoing review to determine whether future amendments are required to support the delivery of the NSW Government’s climate objectives.

Appendix A: Part 5A National Parks and Wildlife Act 1974

The following is an extract from the NPW Act.

Part 5A Minister may create and deal with carbon sequestration rights

82A Meanings of “carbon sequestration” and “carbon sequestration right”

(1) In this Act, *carbon sequestration* means —

- (a) the absorption from the atmosphere of carbon dioxide by land or anything on land, and
- (b) the storage of carbon in land or in anything on land.

(2) In this Act, a *carbon sequestration right*, in relation to land —

- (a) means the exclusive right to obtain the benefit, whether present or future, of carbon sequestration, and
- (b) includes a carbon sequestration right within the meaning of the Conveyancing Act 1919, section 87A.

(3) For the purposes of the definitions of *carbon sequestration* and *carbon sequestration right*, land includes terrestrial environments or ecosystems and aquatic environments or ecosystems.

Note —

See also the definition of *land* in the Interpretation Act 1987.

(4) The regulations may prescribe other types of carbon sequestration and carbon sequestration rights for the purposes of the definitions.

82B Minister may create and deal with carbon sequestration rights

(1) The Minister may create and deal with carbon sequestration rights in relation to land acquired, reserved or dedicated under this Act, other than land reserved or dedicated under Part 4A.

(2) For the purposes of subsection (1), the Minister may undertake activities incidental to or in connection with creating and dealing with carbon sequestration rights.

(3) Without limiting subsection (2), an activity incidental to or in connection with carbon sequestration rights includes a form of carbon benefit from the following activities —

- (a) revegetation,
- (b) vegetation management,
- (c) improvements in soil carbon,
- (d) the management of feral animals,

- (e) fire management,
- (f) carbon sequestered through land use changes or rehabilitation,
- (g) human-induced regeneration.

(4) A function under this section may be exercised in relation to land only if the Minister is satisfied that exercising the function is consistent with the objects of this Act.

(5) A function under this section may not be exercised in relation to land of which a state conservation area trust, regional park trust or local council has care, control and management under this Act unless the Minister has consulted with, and considered advice given by, the trust or council.

(6) The regulations may prescribe other functions or activities that the Minister may exercise or take in relation to carbon sequestration rights.

82C Review of Part

(1) The Minister must review this Part to determine whether the policy objectives of the Part remain valid and whether the terms of the Part remain appropriate for securing the objectives.

(2) The review must be undertaken as soon as possible after the period of 2 years from the commencement of this Part.

(3) A report on the outcome of the review must be tabled in each House of Parliament within 12 months after the end of the period of 2 years.

Appendix B: NPWS carbon sequestration projects

NPWS has carbon projects underway in national parks and reserves across New South Wales, with others in the planning and design phase. All current carbon project sites are shown in Figure 1, with further information provided below.

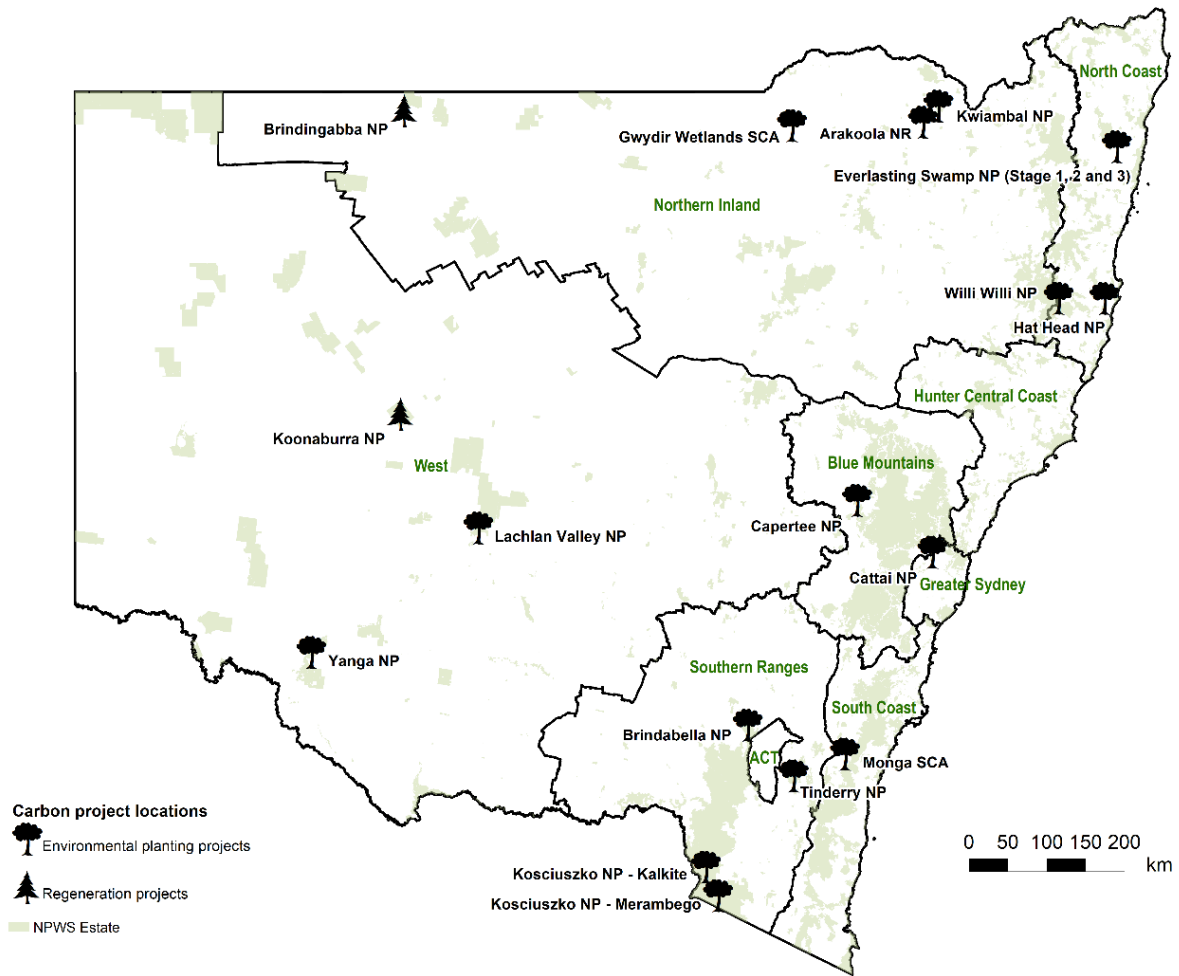


Figure 1 NPWS-managed carbon project locations

Human-induced regeneration projects

Koonaburra

Koonaburra National Park is located 95 kilometres north-east of Ivanhoe. The project area is around 12,754 hectares.

Purpose

The project aims to achieve forest cover by using the human-induced regeneration carbon farming method. This involves conducting eligible activities that encourage the natural regeneration of Australian native species from on-site seed sources.

Expected outcomes

Koonaburra regeneration project will revegetate 12,754 hectares of previously farmed land, sequestering over 500,000 tonnes of carbon dioxide equivalent. This increased vegetation will store additional carbon and generate ACCUs.

Status

The Koonaburra regeneration project application for ACCUs for the first reporting period has been submitted and is under assessment by the Clean Energy Regulator. The project is forecast to generate approximately 574,131 (ACCUs) over 25 years.

Fieldwork preparations are underway to commence trail, fencing and dam works, while aerial feral animal control operations are ongoing.

Brindingabba

Brindingabba National Park is located 150 kilometres north-west of Bourke. The project area size is approximately 33,904 hectares.

Purpose

The purpose of the Brindingabba carbon project is to maximise ongoing carbon sequestration using the human-induced regeneration carbon farming method. By managing feral animals through aerial control and fencing, the project supports the natural regeneration of native forests from in-situ sources.

Expected outcomes

Brindingabba carbon project is forecast to generate a total of 163,630 ACCUs over 25 years (11,799 already generated plus 151,831 future ACCUs).

Status

Aerial feral animal control operations for the project are ongoing and preparations for fencing to support feral animal exclusion and fire management infrastructure are both underway.

Environmental planting projects

Environmental planting sites are across multiple NSW national parks and reserves, with the total project area being approximately 1,018 hectares. Sites include:

- Kosciuszko National Park
- Brindabella National Park
- Willi Willi National Park
- Everlasting Swamp National Park
- Capertree National Park
- Hat Head National Park
- Kwiambal National Park
- Lachlan Valley National Park
- Yanga National Park
- Cattai National Park
- Tinderry National Park
- Arakoola Nature Reserve
- Gwydir Wetlands State Conservation Area
- Monga State Conservation Area.

Purpose

The project uses the environmental plantings carbon farming method, which involves planting or seeding a mixture of native species to establish forest on land previously used for predominantly agricultural purposes. The regenerating forest captures and stores carbon in the landscape, producing carbon credits.

Expected outcomes

Carbon sequestered from the rehabilitation of degraded sites will assist the NSW Government in meeting its net zero plans and support NPWS conservation objectives.

Status

The environmental planting projects are forecast to generate a total of 191,875 ACCUs over 25 years (40,310 already generated, plus 151,565 in future ACCUs).

Environmental planting sites are being maintained with ongoing feral animal and weed management activities being conducted, including weed control and pesticide application. These sites are regularly monitored by staff who report on site activity, conditions, and any site disturbances. Monitoring and maintenance efforts are in place to ensure the health and success of the plantings.

More information

- [Australian Carbon Credit Unit Scheme](#)
- [Carbon positive by 2028 plan](#)
- [Independent review of the Biodiversity Conservation Act 2016, final report \(PDF 700KB\)](#)
- [Primary Industries Productivity and Abatement Program – Growing NSW’s primary industries and land sector in a low carbon world \(PDF 5.8MB\)](#)
- [Net Zero Plan Stage 1: 2020–2030](#)
- [NSW plan for nature](#)
- [NSW Climate Change Policy Framework](#)
- [Task Force on Climate-related Financial Disclosures \(TCFD\) statement](#)
- [Paris agreement](#)

Legislation

- [Carbon Credits \(Carbon Farming Initiative\) Act 2011 \(Cth\)](#)
- [Climate Change \(Net Zero Future\) Act 2023](#)
- [National Parks and Wildlife Act 1974](#)