May 2026

Submission to DCCEEW – Nature Repair Market: Ongoing Development

We welcome the opportunity to contribute to the 'Nature Repair Market: Ongoing Development' consultation. This submission has been prepared by academics from Monash Nature Positive Network.

Monash Nature Positive Network is a multi-disciplinary network of leading researchers across Monash University developing new research and engagement projects designed to address some of the critical policy challenges associated with the global nature positive goal.

- Associate Professor Anita Foerster is a legal academic at Monash Business School with over 15 years research experience in environmental and climate change law and regulation. Anita is the Director of Green Lab, where she leads projects exploring legal and regulatory drivers for improved corporate sustainability performance.

- Dr Ella Vines is a legal academic at Monash Business school and a researcher affiliated with Monash Business School's Green Lab, researching regulatory and market mechanisms for net zero, nature-positive companies. Her PhD research considered the capacity of interaction between the Paris Agreement and other laws including corporations law to catalyse the reduction of Australian coal extraction and consumption.

- Ms Rebekkah Markey-Towler is a lawyer and research fellow at Monash Business School's Green Lab, researching net zero, nature positive companies. Her PhD research examined the role of regulation in addressing problems relating to mortgage lending in a changing climate.

Our comments relate primarily to two of the issues papers: 'Policy settings to enable the Market to supply environmental offsets' and 'Rules to support Market integrity and administration'.

Summary

Our key recommendations are summarised as follows:

- Apply stringent standards for the use of biodiversity certificates for compliance offsetting;
- Take steps to ensure that new investment in nature repair, independent of biodiversity loss, is achieved;
- Consider reframing the significant reversal test;
- Consider implications for biodiversity certificate holders in the case of a relinquishment notice; and
- Strengthen requirements around false and misleading statements.

Issues paper 1: Policy settings to enable the Market to supply environmental offsets

The Issues Paper outlines new protections to ensure that biodiversity projects under the Nature Repair Market (the 'Market') meet standards to enable their use as compliance offsets, including under the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act).

We support the application of stringent standards for the use of biodiversity certificates for compliance offsetting. We agree that further consideration should be given to key issues such as additional security requirements.[1] Permanent protection of offset sites is a key integrity standard for biodiversity markets. Current Market settings allow permanence settings for biodiversity projects of between 25 and 100 years. It should be clarified that methods able to be used for a

[1] Department of Climate Change, Energy, the Environment and Water, *Issues Paper: Policy Settings to Enable the Nature Repair Market to Supply Environmental Offsets* (2026) 8.

compliance offsetting purpose ('offset capable methods') must meet stringent permanence standards (i.e. 100 years with appropriate legal protection on title).

However, we are concerned that introducing more stringent standards for compliance offsetting, but not for broader nature repair and restoration projects, will create a two-track process that may distort demand for biodiversity certificates in the Nature Repair Market. We are also concerned that there is a significant risk that the Nature Repair Market becomes dominated by offset-capable methods and projects and does not attract new investment to nature repair and restoration (independent of loss) as originally intended.

The overarching purpose of the Nature Repair Market (the 'Market') is to 'promote the enhancement and protection of biodiversity in native species in Australia' in line with Australia's commitments under the Kunming-Montreal Global Biodiversity Framework.[2] The market was not originally intended to operate as source of offsets to compensate losses of biodiversity approved under the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act), and indeed the use of biodiversity certificates for compliance offsets was expressly excluded.[3]

Further steps are needed to ensure the Market continues to fulfil its original objective to achieve nature restoration and repair, alongside a pathway to compensate for loss through environmental offsets. These include:

- **Further consideration of the implications of applying different standards to 'offset capable' projects compared to other biodiversity projects not directly tied to biodiversity loss.** Before progressing these reforms, it is important to more fully explore the implications of creating two levels of quality assurance for biodiversity certificates – what does this mean for market demand and integrity? will this approach incentivise investment in additional nature repair and restoration in line with the objectives of the Nature Repair Act?

- **Ensuring that Market projects can only be used as an EPBC Act offset or be stacked with an ACCU scheme project if the method permits, but not both.** We agree, as outlined in the issues paper, this is an important way to ensure additionality under the ACCU scheme. It may also help incentivise investment in holistic carbon and biodiversity projects, which have the potential to attract new and significant sources of investment from the private sector. Drivers for voluntary private sector investment in the ACCU market are much stronger than current drivers for voluntary investment in the Nature Repair Market, given the lack of a corporate nature risk reporting standard and weaker market pressure on corporates to address nature-related risks and impacts.

- **Supporting and incentivising private sector investment in nature restoration and repair, independent of losses**, by introducing mandatory nature risk reporting standards, alongside the new climate risk reporting regime,[4] and accompanying this with mandatory nature-related transition reporting.[5]

Issues paper 3: Rules to support Market integrity and administration

a) Significant reversals

Project proponents are required to notify the CER when they become aware there has been a significant reversal in the biodiversity outcome of the project.[6] The first proposed amendment to the Nature Repair Rules 2024 (Cth) (the Rules)

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[2] *Nature Repair Act 2023* (Cth) s 3(a).
[3] *Nature Repair Act 2023* (Cth) s 76A (as made).
[4] AASB, *S1 General Requirements for Disclosure of Sustainability-Related Financial Information* (September 2024).
[5] At the moment, transition planning will be climate focused: The Treasury, 'Climate-related Transition Planning Guidance', *Consultation Hub* (2025).
[6] *Nature Repair Rules* (Cth) r 72.

will introduce rules for the identification, assessment and management of significant reversals of biodiversity outcomes of projects within the Market. Specifically, the CER will be required to identify whether a reversal is significant or not by considering the impact of the reversal on the indicators for the variable biodiversity project characteristics.

We suggest that the proposed Rules may fail to capture some instances where there has been a significant reversal of biodiversity outcomes. In particular, the Rules rely on self-reporting of any loss in biodiversity outcomes from the project to identify whether there has been a significant reversal. In addition, the test may be less effective in proactively identifying slow decline in biodiversity outcomes over time. Reporting of 'at least every 5 years' may not be sufficient to identify any ongoing declines in biodiversity outcomes.

b) Test for certificate equivalence

The second proposed amendment to the Rules will define a test for Market project proponents to meet certificate equivalence requirements. This will apply where the original biodiversity certificate issued for a project is no longer available and the CER has required the certificate to be relinquished. Project proponents will be required to surrender the original biodiversity certificate or an equivalent certificate or certificates under the Market.

We are concerned that the Issues Paper does not make clear how the proposed new rules might impact entities which have purchased biodiversity certificates (e.g., towards voluntary nature-related targets). It may be necessary to include a requirement to notify the purchaser of a certificate for which a relinquishment notice has been issued because the biodiversity outcomes of the project have not been maintained. There may also need to be consideration of how to compensate that purchaser for the certificate that no longer has biodiversity outcomes attached to it.

c) Streamlining market operations

Finally, the third proposed amendment will implement administrative changes intended to streamline market operations, improve usability, and ensure alignment with the updated legislation. Specifically, one of the proposals is to remove the requirement for a statutory declaration and instead rely on the obligations placed on project proponents not to make false and misleading statements to the CER.

We acknowledge that the Rules include, for example, a provision that requires a project proponent to notify the CER of any information that is false or misleading within 60 days.[7] The Act also allows the CER to issue a relinquishment notice if the original biodiversity certificate was issued on the basis of false or misleading material.[8]

However, this could be strengthened by: (1) introducing a general prohibition on misleading or deceptive conduct;[9] or (2) introducing a requirement to ensure that any information providing to the CER (including in reports) gives a true and fair view of the biodiversity project.[10]

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[7] *Nature Repair Market Rules 2023* (Cth) r 73(2)(e).
[8] *Nature Repair Act 2023* (Cth) s 144(1)-(2).
[9] See, eg, *ASIC Act 2001* (Cth) ss 12DA(1), 12DB(1).
[10] See, eg, *Corporations Act 2001* (Cth) s 297.