



Biodiversity Council

Submission to the Nature Repair Market: Ongoing development

11 May 2026

About The Biodiversity Council

The Biodiversity Council brings together leading experts including Indigenous knowledge holders to promote evidence-based solutions to Australia's biodiversity crisis. The Council was founded by 11 universities with the support of Australian philanthropists.



Introduction

The Biodiversity Council welcomes the opportunity to provide feedback on the [policy settings to enable the Nature Repair Market to supply environmental offsets](#). This includes three issues papers out for consultation: 1. Policy settings to enable the Market to supply environmental offsets, 2. Supporting threatened species and threatened ecological communities in Nature Repair Market projects, and 3. Rules to support Market integrity and administration.

Our understanding

The [Nature Repair Market](#) (NRM) is a national, legislated biodiversity market scheme that was intended to encourage people and businesses to invest in projects that restore the natural environment. It is administered by the Clean Energy Regulator which also oversees [Australia's carbon markets](#).

The *Nature Repair Act 2023* (Cth) established the NRM in December 2023. Under the Act, the Clean Energy Regulator (CER) may issue [biodiversity certificates](#) to projects that deliver biodiversity outcomes according to an NRM method. These certificates may be sold. Certificates are recorded on a register managed by the CER.

The NRM is still new. The first NRM method and the [Ecological Knowledge System](#) to support the market were released for public consultation in October 2024. There is currently only one project registered on the [Biodiversity Market Register](#) and it is yet to be issued a tradeable certificate.

As part of the government's environmental law reform package passed in November 2025, the *Nature Repair Act 2023* was amended to allow projects to be used to meet offset obligations under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The reforms also established two new institutions that have functions related to biodiversity offsets: 1) [National Environment Protection Agency](#) (EPA) and 2) [Restoration Contributions Holder](#) (the Holder).

The EPA will be responsible for assessing projects, setting approval conditions and determining if offset requirements are met. It is due to commence 1 July 2026.

Under the reforms, instead of sourcing an offset themselves, proponents can now make a restoration contribution payment to the Holder who then has the responsibility of finding an offset. To reduce risks that no suitable offsets are available, the Holder has flexibility in applying offsetting principles including like-for-like.

The Biodiversity Council is concerned that the Nature Repair Bill was only passed because amendments were made that prohibited biodiversity certificates from being used for offsets.¹ This means that the design of the NRM is not fit-for-purpose for offset delivery.

¹ See news [here](#) and specific amendments [here](#).

Moreover, the release of the issues papers for public consultation prior to the draft EPBC Act Offset Standard and before the EPA has commenced is akin to building the plane while flying it. We have serious concerns that the offset requirements are simply ‘bolted-on’ to the existing frameworks for carbon credits without considering how the scheme will work holistically considering the role of new institutions and the feedback loops required to ensure that the system has integrity. At a minimum this should include ensuring that the scheme is designed to:

- a) Deliver outcomes that sufficiently compensate for impacts on matters of national environmental significance.
- b) Ensure that landholders receive a fair credit price and are not subject to moral hazard issues² from brokers or consultants.
- c) Guarantee that there is no ‘double counting’ of credits and that once a credit has been used to meet an offset obligation it can no longer be traded.

We have mapped our understanding of the architecture of the NRM for offsets and the role of different organisations (Figure 1). The white boxes describe the functional relationship between organisations with the arrow head pointing to the ‘recipient’. The blue dotted lines and italicised text are feedback loops that we think are currently absent from the design of the scheme but are important for its integrity. Many of these are discussed under our key concerns, below.

Recommendation 1: The Biodiversity Council recommends that the government further consult on the comprehensive architecture of the scheme showing all the feedback loops and how the risks we have identified have been addressed.

² i.e. when the broker or consultant takes risks because the landholder bears the consequences later.

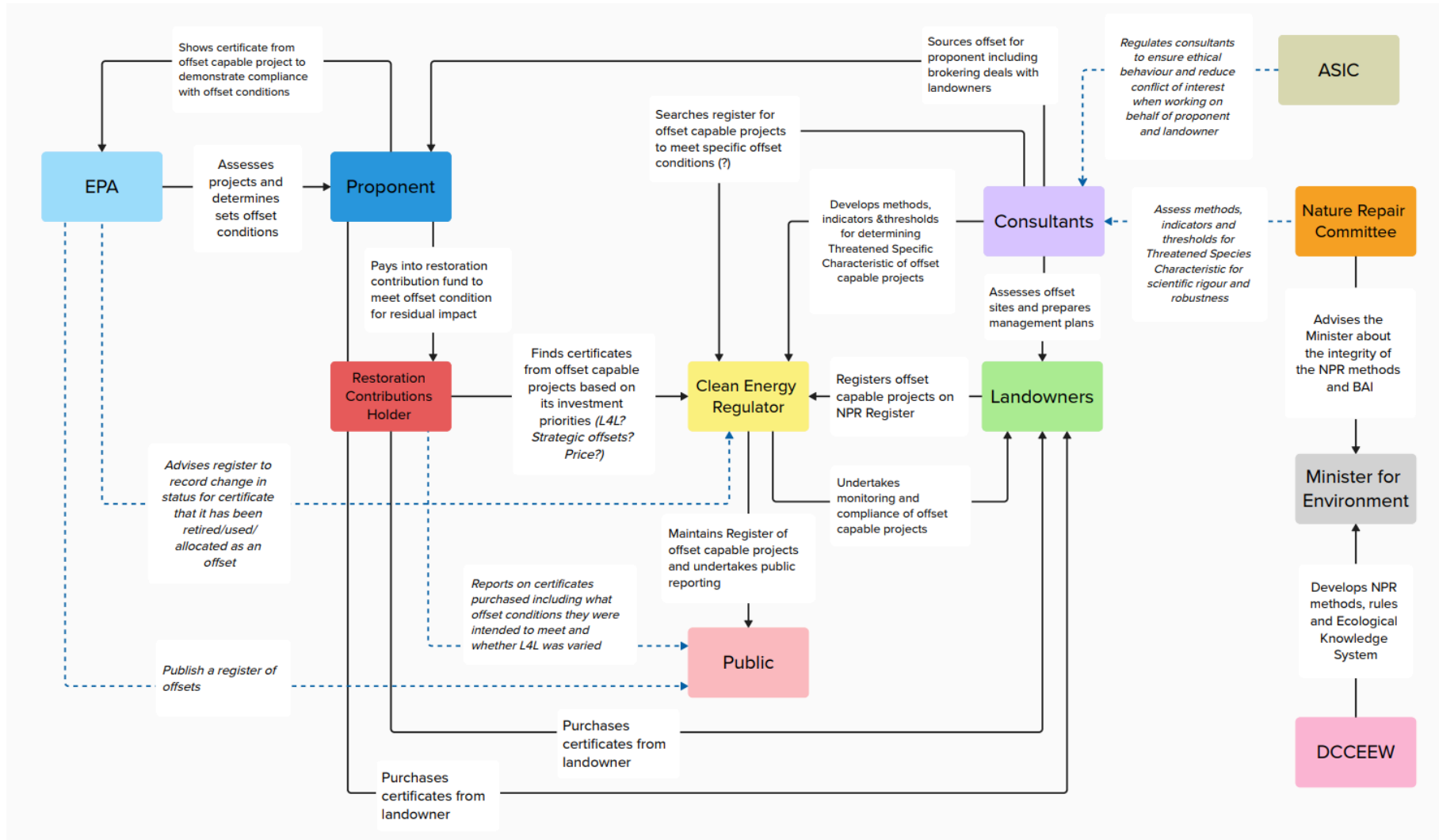


Figure 1: Biodiversity Council's understanding of the architecture of the NRM with respect to offsets.

Key concerns

1. Unclear process for retiring biodiversity certificates used as offsets

It is unclear if (and how) biodiversity certificates that are shown to the EPA to demonstrate that an offset condition has been met are retired on the register. If a proponent shows a biodiversity certificate to the EPA, but it remains available on the register for trade it could be traded again and subsequently used as proof of meeting another offset condition.

Victoria solves this problem by [‘allocating’ native vegetation credits](#) ([NSW has an equivalent process](#) for ‘retiring’ credits that are used as offsets).

Under the Victorian system the credit owner (biodiversity certificate owner) must submit a form to the register to allocate their credits to a specified approval (with reference details) and obtain an allocated credit extract. This allocated credit extract is shown to the regulator who requires proof that an offset has been delivered. Once allocated, a credit cannot be traded or used for any further offsets.

This system works because the regulator checking whether an offset has been delivered knows that a simple credit extract is insufficient proof because it may still be traded to another party and/or used to meet other offset requirements. If the NRM was to adopt this process it would require a new class of biodiversity certificate, a new process for changing the status of biodiversity certificates on the register, and educating regulators about what proof is required to be satisfied that an offset obligation. This requires coordination between the different entities involved in the scheme, which we understand is difficult because some of them do not exist yet.

It would appear that the mechanics of using NRM projects as offsets and the relationship between the CER and EPA hasn’t been fully considered. The second issues paper notes that:

“The determination of offset eligibility, and whether the Market project meets the finalised Offset Standard and any other relevant standards, will be a matter for the National Environmental Protection Authority (EPA)”.

This would likely require the EPA to check the documentation that supports project registrations. For instance, it would need to check if the projects overlap with other regulatory requirements or investment programs to determine if the additionality principle is met, and the details of offset activities, indicators and threshold values (see concern 4, below) to determine if the predicted benefits are likely in order to check if the feasibility principle is met. This would be a perverse outcome for a market mechanism that is intended to increase efficiency.

Given effective coordination and communication between entities is critical to the effectiveness and efficiency of the scheme these issues must be resolved before the scheme is operational.

Recommendation 2: The Biodiversity Council recommends that the process for retiring biodiversity certificates used as offsets be clarified.

Recommendation 3: The Biodiversity Council recommends that offsets should not be included in the NRM until the coordination arrangements with the new entities - the EPA and the Restoration Contributions Holder - have been settled.

2. Information on compliance is not comprehensive

To ensure that impacts on biodiversity are fully compensated, offset activities must be delivered and outcomes must be enduring. Several audits/reviews³ have identified issues with delivery of offsets under the EPBC Act including failing to secure the offset site, failing to deliver the management plan, and undertaking unauthorised clearing. The Biodiversity Council supports the relinquishment of biodiversity certificates as a tool for addressing non-compliance. However, to truly support the integrity of the market we would like to see a comprehensive compliance policy and plan from CER as per recommendations 20, 25, 26 and 27 of the Department of Agriculture, Water and the Environment's [2021 Environmental Compliance Regulatory Risk Review](#). This would include (but is not limited to):

- a) proactive compliance activities that will be undertaken to help scheme participants to understand and meet their obligations
- b) prioritisation approaches and tools to be used to monitor compliance
- c) frameworks to guide consistent compliance action, including escalating response.⁴

There should be greater oversight of an offset market than a voluntary market due to the different risks. If a landowner fails to deliver environmental improvements in a voluntary market then this can be remedied by them paying a penalty/refunding money or taking further action. There is a loss of trust in the market, but there is not a permanent environmental loss. This is markedly different if a landowner fails to deliver an environmental offset. In these cases, there may be permanent impacts to matters of national environmental significance that are uncompensated. An effective and comprehensive compliance regime must be central to the design of the offset scheme. It should be noted that some EPBC offsets may be delivered outside of the NRM with different institutions responsible for undertaking offset compliance, including the Commonwealth EPA for direct offsets and State and Territories. To ensure the integrity of all EPBC offsets, it is important that there are common expectations regarding compliance and enforcement so that outcomes are equivalent regardless of the regulator.

Recommendation 4: The Biodiversity Council recommends that the CER develop a comprehensive compliance policy and plan specific to the offset scheme that addresses

³ See for example:

<https://www.dcceew.gov.au/sites/default/files/documents/environmental-offsets-audit-report.pdf> & <https://www.acf.org.au/news/set-and-forget-how-offsets-under-national-environmental-law-drive-habitat-destruction>

⁴ See for example: <https://www.epa.vic.gov.au/enforce-law>

issues identified in previous reviews of biodiversity offset schemes and environmental compliance more broadly.

Recommendation 5: The Biodiversity Council recommends that the CER coordinate with the EPA and State and Territory regulators to ensure a shared approach to compliance and enforcement of offset sites.

3. Projects may generate both ‘general’ biodiversity certificates and EPBC offsets

The second issues paper makes it clear that projects used to generate carbon credits under the Australian Carbon Credit Unit scheme cannot also be used as an EPBC offset. This is a positive and important safeguard. However, it is unclear whether projects that are used as an EPBC offset can also sell biodiversity certificates on the NRM market to businesses or philanthropists. This ‘layering’ or ‘stacking’ requires careful consideration. These activities may be perceived to violate the additionality principle, and companies who make claims of delivering biodiversity benefits that are sourced from the same project as offsets may be perceived as ‘greenwashing’ by the public. There is a risk that this will sully the reputation of the market reducing voluntary demand.

Recommendation 6: The Biodiversity Council recommends that the stacking of EPBC offsets and ‘general’ biodiversity certificates should be ruled out at this stage and that there should be further consultation if it is considered in the future.

4. Scoring framework requires further development before it is used for offsets

The second issues paper explains that the Threatened Species Characteristic:

“provides a consistent and credible framework for collecting information, and verifying benefits that will likely meet offset requirements for threatened species.

[It] describes the capability of the project area to support threatened species. The Threatened Species Characteristic is the mechanism that, under a method, measures the benefits associated with activities that improve outcomes for threatened species.”

To measure the “benefits associated with activities”, a project will identify an indicator(s) for the relevant threatened species and then a series of threshold values related to that indicator. These indicator values include the:

- Starting value which is measured at the initiation of the project.
- Forecast value which is the expected value that will be achieved over the life of the project from the activities.
- Threshold value which is the minimum level that the indicator must reach for the CER to be satisfied that the forecast value is likely to be achieved, and therefore issue a biodiversity certificate. It lies between the starting value and forecast value.
- Benchmark value which is the best available example of that indicator. It sits above the forecast value.

Of concern is that specific indicators for the Threatened Species Characteristic will not be prescribed because of the “bespoke nature of threatened species and Market projects”. It will be left to ‘suitably qualified persons’ (consultants), to identify appropriate indicators and thresholds. A Threatened Species Characteristic calculator tool will be used by consultants to calculate species-level and project-level scores. It is expected that the tool will be developed “over time to limit the discretion required from the suitably qualified person in assessment.” This is a problematic approach.

Linking activities a landowner can undertake - such as planting trees or understorey, removing stock, controlling pest species, increasing woody debris - with improvements to species recovery is challenging. Consider for instance, the causal models that the Victorian government has developed which show about the relationship between management activities and outcomes for threatened species. For examples, see:

- [Causal model of fox control on small to medium sized ground dwelling mammals](#) (includes threatened Quoll)
- [Causal model of fox and cat control on ground-dwelling birds](#) (includes Plains Wanderer)
- [Causal model of deer control on frogs](#)
- [Draft model for mountain pygmy-possum](#)

It is clear from these models that the relationship between management actions and species outcomes is complex.

There are many species that would be difficult to model because they are inadequately studied and/or monitored. For instance, an estimated 24–46% of Australia’s threatened vertebrate species receive no monitoring at all⁵ and a lack of ecological knowledge is a recognised issue for threatened plant conservation⁶.

Expecting consultants to understand the complex interacting variables between on-ground actions and threatened species recovery is ambitious. To then task them with identifying measurable indicators and accurately forecast future values of these indicators for threatened species that they do not have thorough knowledge of, or for which there is limited scientific knowledge, is highly optimistic. There is a significant risk that inaccurate assessments and predictions by consultants will result in on-ground actions at offset sites inadequately compensating for significant impacts on threatened species.

There are also problems with the Threatened Species Characteristic aggregate score in the context of offsetting significant impacts on threatened species.

The second issues paper states that:

“The species-level scores will be aggregated to a project-level score and weighted by the number of species relevant to the Market project.”

“The score measures the totality of the benefit of the project activities to the capability of the Market project area to support all relevant threatened species.”

⁵ https://onlinelibrary.wiley.com/doi/epdf/10.1111/emr.12335?saml_referrer

⁶ <https://onlinelibrary.wiley.com/doi/full/10.1111/aec.13514>

This is incompatible with the Like-for-Like principle which would require offsets to compensate for the residual significant impact for each threatened species impacted. It is not clear whether the biodiversity score is area weighted, or how spatial extent is incorporated into equivalence calculations.

These issues are compounded by the fact that the Threatened Species Characteristic appears to have been developed separately to the Offsets Standard and the Offsets Calculator which are yet to be finalised.

Further, it is not clear whether the same biodiversity score framework will be required to be applied at impact sites to ensure currency fungibility, or how differences in assessment methods between impact and offset sites will be reconciled.

Overall, the method by which the quantity of biodiversity gain is estimated is not explained in sufficient detail to assess whether gains can be meaningfully compared with losses.

Without greater clarity on how loss–gain equivalence will be measured, there is a risk that offset transactions could rely on inappropriate metrics, undermining confidence in claimed outcomes. Further explanation of the biodiversity score methodology and its application at both impact and offset sites is needed to assess this.

Recommendation 7: The Biodiversity Council recommends that more detail is provided regarding how consultants are expected to develop methods, indicators and thresholds for the Threatened Species Characteristic and whether these products will be reviewed by the Nature Repair Committee.

Recommendation 8: The Biodiversity Council recommends that further development and public consultation be undertaken regarding the Threatened Species Characteristic, the Threatened Species Characteristic calculator tool, the Offsets Standard and Offsets Calculator, before the scheme is operational.

5. Broad range of functions undertaken by consultants without sufficient checks

It would appear that a consultant can undertake a diverse variety of functions in the offset scheme, including:

- Working on behalf of a “Market project proponent” (a landowner) to undertake assessments of their project according to NRM methods, the Threatened Species Characteristic and the Offset Standard requirements.
- Developing methods, thresholds and indicators for the Threatened Species Characteristic to determine the ‘value’ of the project (see concern 4, above).
- Working on behalf of a proponent to find an offset that meets their requirements.
- Facilitating a trade between a proponent and a landowner, including negotiating price.

The second issues paper notes that a “suitably qualified person plays an important role in the Market broadly, and in assessing the capability of an area to support threatened species” and that “requirements of a suitably qualified person are set out in a method and include

requirements related to relevant qualifications and experience.” There doesn’t seem to be a recognition of the potential conflicts of interest in consultants undertaking these diverse roles, with the requirements focussed on expertise rather than independence or impartiality. Consideration should be given to developing guardrails such as mandatory disclosures, ethical codes of conduct, or third-party auditing. This seems to be an under-developed area in offset markets. This contrasts with, for example, financial markets where ASIC licences and regulates financial services businesses, including financial brokers. The regulatory settings are designed to address conflicts of interest in asymmetric relationships; for instance, mortgage brokers have a duty to work in the best interest of their customers rather than financial institutions.

Recommendation 9: The Biodiversity Council recommends that the CER consult with ASIC about the best approach to managing the risk associated with consultants acting on behalf of both landowners who are supplying biodiversity certificates for offsets and proponents who require biodiversity certificates for offsets and helping to negotiate prices for trade of biodiversity certificates.

6. There is a risk that offset funding will displace government investment in nature

It is expected that the inclusion of offsets in the Nature Repair Market will stimulate demand. However, offsets are not a substitute for direct conservation funding. Using offset revenue to cover existing management shortfalls constitutes cost-shifting rather than creating the additional biodiversity gains required to balance losses. To halt and reverse biodiversity loss, the government must prioritize sustained, direct investment in species recovery rather than relying on compensatory mechanisms to address systemic degradation. The Restoration Contributions Holder is not bound by like-for-like principle in the Offset Standard and may deliver an offset for a different species or ecological community that the one impacted. This makes public reporting by the Holder and the CER on offsets traded and used absolutely key to determining whether offset schemes are improving outcomes for threatened species and ecological communities, or undermining them.

Reports on operation of the market should distinguish between activity (generation, trade and use) of biodiversity certificates used for offsets and those purchased by businesses or philanthropists. This ensures that there is sufficient transparency about the operation of the offset market and investment in biodiversity actions over and above regulatory requirements.

Recommendation 10: The Biodiversity Council recommends that the CER public reporting clearly separate operation of the offset market and general/voluntary NRM.