

Environment and Communications Legislation
Answers to questions on notice
Climate Change, Energy, the Environment and Water Portfolio

Inquiry: Nature Repair Market Bill 2023 and Nature Repair Market (Consequential Amendments) Bill 2023 [Provisions]

Question No: IQ23-000200

Hearing Date: 30 June 2023

Division/Agency: Nature Repair Market and Environmental Science Division

Topic: Offsets and impact on agricultural land use

Question Date: 04 July 2023

Question Type: Written

Senator Cadell asked:

1. Is there consideration of putting in place a Ministerial veto for biodiversity projects on agricultural land – like the one in place for regeneration projects under the Emissions Reduction Fund?
2. Under the Agriculture Biodiversity Stewardship Package implemented by the former Coalition Government the protocols and pricing systems developed by the Australian National University for the Carbon + Biodiversity and Enhancing Remnant Vegetation pilots were carefully designed to avoid incentivising the conversion of prime agriculture land to conservation uses. How will the Government ensure this is the case with the methods and processes under the Nature Repair Market?
3. When will the National Environmental Standard for Environmental Offsets and the proposed changes to the offsets policy be finalised for the Environment Protection and Biodiversity Conservation (EPBC) Act 1999?
 - a. Will a potential source of demand for biodiversity certificates be through the new offset policy under the EPBC Act?
 - b. Will the new offset policy allow for project proponents of a controlled action under the EPBC Act to make a conservation payment to the Government in lieu of securing offsets?
 - c. If so, can the Government then buy biodiversity certificates from these conservation payments? Will the conservation payments need to be 'like to like' native vegetation with what the developer impacted, or can it be for any type of native vegetation?

Answer:

1. The Nature Repair Market Bill (the NRM Bill) includes consideration of impacts on agriculture. Section 33(f) of the the NRM Bill allows legislative rules to define “excluded biodiversity projects” that may have a material adverse impact on land access for agriculture production. Such rules could include a ministerial veto power in relation to projects.
2. The NRM Bill provides two places for this to be considered. The first, operates at methodology determination level. Clause 47(1)(b)(i) of the NRM Bill provides for the Minister to consider agricultural impacts of draft methods. This allows the Minister to manage the impact of projects on agricultural production at a broad level.

As discussed above, the second operates at a project level. Clause 33(f) of the NRM Bill establishes “excluded biodiversity projects” that may have a material adverse impact on land access for agriculture production to be defined in the Rule including projects.

The Department of Climate Change, Energy, the Environment and Water is also developing a National Stewardship Trading Platform which will help landholders plan biodiversity projects by connecting them with potential buyers with interest in specific types of projects.

3. The National Environmental Standard for Environmental Offsets will be released for broad consultation in the second half of the year, alongside details of the Nature Positive legislation.
 - a. Methods could be developed under the Nature Repair Market that meet the requirements set out in the Environmental Offsets Standard. Projects certified under the Nature Repair Market will not be used as offsets, unless and until, they meet the new Environmental Offsets Standard.
 - b. The Environmental Offsets Standard will set out the requirements for environmental offsets and for making a conservation payment. This is consistent with the commitments in the government's Nature Positive Plan.
 - c. As set out in the Nature Positive Plan, conservation payments will be made to, and invested by, a body such as an independent government trust to ensure funds are used for their intended purpose and subject to full public accountability. An Investment Strategy will be developed to support decision making on the expenditure of conservation payments, and will consider requirements for 'like for like' investment. The body responsible for investing conservation payments may be able to consider purchase of biodiversity certificates if this is supported by the nature repair market, and delivers outcomes consistent with the Investment Strategy.

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Inquiry: Nature Repair Market Bill 2023 and Nature Repair Market (Consequential Amendments) Bill 2023 [Provisions]

Question No: IQ23-000245

Hearing Date: 30 June 2023

Division/Agency: Nature Repair Market and Environmental Science Division

Topic: Regulatory Impact Statement

Question Date: 04 July 2023

Question Type: Written

Senator Cadell asked:

1. Impact analysis – Economic benefits of the approach (page 250) states “...and the delivery of outcomes from the first tranche of projects will be at least three to five years away”.
 - a. Can it be confirmed what ‘outcomes’ are being referred to? Is it biodiversity outcomes?
 - b. Will the Bill only recognise biodiversity outcomes? Or can ‘activities’ be a proxy indicator for biodiversity outcomes?
 - c. Payments were based on ‘activities’ under the Agricultural Biodiversity Stewardship Market Bill, noting these would lead to biodiversity outcomes – can this be the case under the Nature Repair Market Bill?
2. Impact analysis – Cost to participate (page 251) – the example used for indicative estimate of regulatory costs for landholders is \$340 per annum over a 10-year project life.
 - a. Given permanence periods is 25 or 100 (or as per methodology) and the Bill indicates compliance with the biodiversity outcomes will be monitored – why is 10 years used? How will compliance be monitored?
3. Financial flows – states – “under the proposed policy approach, the financing of proposed biodiversity projects would initially be fronted by the landholder or project proponent....The award of a certificate will only be considered if the project is progressing towards delivering, and appropriately maintaining, the targeted biodiversity outcomes as determined in accordance with the methodology the project has approval to implement”.
 - a. The Agriculture Biodiversity Stewardship pilots have payments upfront to assist with activities – will this still be the case? Or will the landholder or project proponent be required to put all the relevant activities in place to demonstrate progressing towards the targeted biodiversity outcomes? What is the timeframe estimated? Can an example be provided that supports this policy?
 - b. As per the statement in ‘Participation’ it notes that farmers under the pilots would be issued certificates if they are successful in starting a project – what is defined as ‘starting a project’?
4. Participation – page 254 states – “the process of establishing a price for Biodiversity Certificates will be left for buyers and sellers to determine themselves through negotiation”.
 - a. Will there be any kind of transparency or publication of price signals to assist with determining a ‘value’ for biodiversity outcomes?
5. Landholders – page 256 states – “other landholders may dedicate the majority or the entirety of a property to the purpose of creating biodiversity outcomes..... It’s possible that some properties may be converted entirely to biodiversity projects and that is entirely within the rights of the landholder or project proponent provided they have all relevant approvals. The scale of the challenge of arresting the biodiversity decline and stabilising the situation may necessitate this, but that is a decision for individual landholders”.
 - a. Can the Department confirm if any modelling has been completed to demonstrate the potential impacts of this change in land use to communities, food security etc.?
6. Financial, opportunity and economic costs – states “As a guide, information from the current

Agriculture Stewardship pilots indicates that the annual per- project implementation cost to landholders for projects meeting the criteria could range from \$65,000 to \$175,000 on average over 10 years”.

a. Is this estimate based on the Carbon + Biodiversity or Enhancing Remnant Vegetation methodology? Or a mixture of both?

7. Financial, opportunity and economic costs states – “Government will provide industry development support to landholders wishing to participate in the market, such as tools, advice, and materials to assist them in assessing their potential costs and benefit of running a project on their property.”

a. What types of advice might be provided to landholders? Will the advice include an estimated value of the biodiversity certificate?

8. Regulatory Burden – reports – the example indicates that reports may be up to 5 reports over a 10-year period. Would it be expected reports would be provided over the permanence period?

9. Regulatory Burden – reports – it notes that there are now not required to under audits under the Agriculture Biodiversity Stewardship Package. Is this for both the Carbon + Biodiversity and Enhancing Remnant Vegetation methodologies?

10. Views of stakeholders page 263 – notes that other ways the Commonwealth could support participation in the market will be considered during the (next) implementation phase – What is envisaged as the next implementation phase?

Answer:

1a. The reference is to biodiversity outcomes.

1b. The methodologies would describe the biodiversity outcomes that would be achieved by the activity. This could include activities such as native vegetation plants or weed/pet management. The methodologies would need to meet the integrity standards, be informed by science and include public consultation.

1c. The Nature Repair Market Bill does not define when payments may be made for registered projects. This is for project proponents to negotiate with parties interested in supporting their project. The Department of Climate Change, Energy, the Environment and Water will develop draft standard contracts to support farmers, First Nations groups and other landholders in negotiating fair arrangements for their projects that include up front payments.

2a. The estimate of regulatory costs for landholders is an average annual figure. This was based on estimated costs for the current Agriculture Stewardship pilots because these were determined to be the most relevant reference point. Projects will vary in size, nature, length of project, and permanence period, and regulatory costs will vary accordingly. Project proponents will assess the nature of these regulatory costs when they make decisions around the design of their project.

3a. The existing Agriculture Biodiversity Stewardship pilots are separate to the Nature Repair Market scheme, and participants will continue to be eligible for support provided they comply with the requirements of the pilot program.

As noted above, the department will develop a range of guidance material and other tools, including draft contracts to support landholders in developing viable business models.

3b. The department cannot find the reference to this quote.

A biodiversity certificate would be issued by the regulator if the project is progressing towards delivering, and appropriately maintaining, the targeted biodiversity outcomes as determined in accordance with the methodology the project has approval to implement.’

- 4a. The Bill provides powers for the Secretary of the department to provide information that will support the development of a healthy market. This could include market reports that set out expected sources of supply and demand, and such price information as in the public domain.
- 5a. The department has identified the potential impacts of the Nature Repair Market scheme in the Policy Impact Assessment included as Attachment B to the Explanatory Memorandum. These potential impacts are not definitive because the scheme will be new and may take time to mature, participation in the scheme will be voluntary. No quantitative modelling has been undertaken.
- 6a. The reference to the project implementation cost to landholders for projects in the Agriculture Stewardship pilots relates to projects is an estimate in late 2022 of projects participating in the Carbon + Biodiversity, and the Enhancing Remnant Vegetation streams. It is an estimate at that point in time, and reflects projects that vary in scale, location, baseline conditions, and the mix of management activities required to pursue the targeted outcome.
- 7a. A range of information and guidance materials will be available to parties interested in participating in the market. These materials will address the general nature of the market, roles and responsibilities of market participants, and the potential for successful projects to be awarded a Biodiversity Certificate that may be attractive to potential buyers. The materials will help parties understand the costs and benefits of participating in the scheme, including the aspects that may be broadly relevant to understanding the potential value of a Biodiversity Certificate.
8. Yes, a project is expected to provide reports over the permanence period, in accordance with the methodology.
9. Participants in the existing Agriculture Biodiversity Stewardship pilot projects are not required to undertake project audits but are required to provide project reports in accordance with the contract. Farmers participating in the carbon + biodiversity pilots are required to undertake audits in accordance with the Carbon Farming Initiative.
10. The implementation phase would commence following passage of the bill.