



## TRUST FOR NATURE

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Biodiversity Market Team  
Department of Climate Change, Energy, the Environment and Water

By email: [naturerepairmarket@dcceew.gov.au](mailto:naturerepairmarket@dcceew.gov.au)

Dear Biodiversity Market Team,

### **Nature Repair Market Bill 2023**

Trust for Nature welcomes the opportunity to make a submission on the draft Nature Repair Market Bill (the Bill).

### About Trust for Nature

Trust for Nature (the Trust) is Victoria's dedicated private land conservation agency, established under statute, and responsible for ensuring the long-term protection and management of nature on private land in Victoria. Among others, it works with farmers, First Nations groups, natural resource management bodies and conservation organisations. It has helped protect more than 110,000 hectares of important habitat on private land, principally by entering into voluntary permanent legal agreements on title with more than 1,600 committed landowners. These landowners are protecting, and in some cases actively managing, their conservation values. They are leaders in nature repair.

### Summary

**We endorse the [submission](#) of the Australian Land Conservation Alliance (ALCA).** We have worked closely with ALCA in the development of its submission, including the proposed legislative amendments.

Trust for Nature welcomes the following elements of the Bill:

- that the owners of private land already the subject of a conservation covenant are not excluded from the regime, subject to additional requirements;
- that the Commonwealth can purchase biodiversity certificates, which – assuming it uses this option, especially as the Nature Repair Market (the Market) is being established – will enable the

Commonwealth to kick-start and build confidence in the market, contribute to nature repair where it is needed most, and help to send signals to the market about the value of high quality, secure agreements;

- that biodiversity projects will have a minimum duration of 25 years, prioritising long term outcomes for biodiversity projects.

However we feel there is more work to do in relation to the following:

- the role of conservation covenants in the Market;
- the inclusion of biodiversity offsets in the Market; and
- the need for an investment strategy for the Market.

We also wish to provide input into priority methodologies which we understand are in development.

### The role of conservation covenants in the Market

Under the draft Bill, land already the subject of a permanent conservation covenant (or equivalent in-perpetuity agreement) is eligible to participate in the Market, provided the project meets additionality requirements, ie, if the activity “would be unlikely to occur if the project were not carried out”.

We broadly support the idea that the voluntary biodiversity market should facilitate the growth in biodiversity projects and outcomes, but not if this results in a chilling effect on Australia’s permanent protection program; or fails to reward existing projects demonstrating best practice in land management and security. On this basis we make the following points.

1. The framework should be designed to **ensure that landholders don’t avoid entering into in-perpetuity agreements** currently delivered across all State, Territory, and Federal jurisdictions on the basis that:
  - a. there is any perception that protecting land with a conservation covenant would prevent participation in the Market;
  - b. landholders could be required to demonstrate that they weren’t otherwise intending to protect their land, ‘but for’ the biodiversity project.

As noted in our previous submission, a helpful precedent is available under the Victorian native vegetation offsets scheme, where existing covenants are eligible to participate in the native vegetation offset market on the basis that the landholder is managing threats beyond their current obligations under the covenant.<sup>1</sup> Similarly, Wilderlands – a voluntary biodiversity trading platform launched last year – will offer biodiversity credits to private investors for biodiversity projects, and will not be excluding land under covenant.<sup>2</sup>

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<sup>1</sup> See cl 9.1.1. of the Native Vegetation Regulations, [https://www.environment.vic.gov.au/\\_data/assets/pdf\\_file/0021/91146/Guidelines-for-the-removal,-destruction-or-lopping-of-native-vegetation,-2017.pdf](https://www.environment.vic.gov.au/_data/assets/pdf_file/0021/91146/Guidelines-for-the-removal,-destruction-or-lopping-of-native-vegetation,-2017.pdf)

<sup>2</sup> <https://wilderlands.co/wp-content/themes/wilderlands/assets/downloads/wilderlands-whitepaper-v1.pdf>

2. Conservation covenants are generally accompanied with a covenant management plan. This plan outlines positive actions and land management activities that the landholder may undertake to support conservation and meeting the requirements of the deed of covenant. It will be important that **landholders with an existing covenant are able to qualify for biodiversity restoration projects on their land notwithstanding their existing covenant management plan**, provided they are not being funded to undertake specific activities outlined in that management plan.

These issues may be mitigated in the following ways:

1. **Defining 'protect' in the legislation**, to include reference to legally binding on-title conservation covenants and agreements as the leading option for achieving this;
2. Ensuring that a **methodology determination related to enhanced, permanent protection** is developed as a matter of priority. This should provide greater weight to projects delivering permanent protection compared with other forms of protection (such as fencing off an area).

Ultimately, land trusts like Trust for Nature will be integral to driving demand in this Market – both as project proponents and intermediaries for other landholders. At the very least, the framework needs to remove all barriers or ambivalence around the role of land trusts. Preferably, land trusts should be put in the driver's seat in terms of delivery, with covenants being treated as the 'gold standard' for project eligibility.

## The inclusion of biodiversity offsets in the Market

The Trust **does not support a voluntary biodiversity market that includes provision for biodiversity offsets**: there are already regulated markets that serve this purpose, whereas this Market scheme is intended to support net gain or net positive outcomes. We support ALCA's proposal for an amendment that would exclude offsets. If that isn't accepted, and biodiversity projects are able to be used for offsetting purposes, we strongly support the limitations proposed by ALCA in its submission, notably that:

1. the Biodiversity Market register is transparent about when a biodiversity certificate is being used as an environmental offset;
2. there is a means for biodiversity certificates being used for a biodiversity offsets to be retired;
3. there is a means to prevent the on-selling of offsets;
4. landholders can choose to prevent (or allow) biodiversity certificates related to their land being used for biodiversity offsets;
5. the Government must consider how it will regulate secondary markets in the context of offsets.

The Trust further supports:

6. a cap being imposed on the number of projects that can be used for offsetting purposes (for example, not more than 20 per cent of all projects annually); and
7. offset projects being subject to a requirement of permanent protection.

Note that we are distinguishing here between required (regulated) offsets and voluntary offsets. If a private company wants to voluntarily 'offset' their biodiversity footprint outside of the regulatory system (see for example [Acres for America](#), or the emerging reporting requirements pursuant to the [Taskforce for Nature-based Financial Disclosures](#)), then we consider this complimentary to the intent of the scheme.

## Need for an investment strategy

The framework legislation doesn't include provision for a **regional planning or investment strategy to guide where and how biodiversity projects should occur**. The Trust considers it vitally important that the framework provides this strategic guidance, a standard process for most markets or funds. An investment strategy could help drive nature repair investment to where it's needed most, for example, in alignment with threatened species action plans, or addressing issues identified in state of the environment reports. Ideally the Market would be aligned with regional plans developed under the EPBC Act. State land trusts are also able to provide relevant, science-based input into this process (see for example Trust for Nature's [Statewide Conservation Plan](#)).

## Priorities for methodology development

We are aware that in parallel with the finalisation of the Bill, DCCEE is also preparing a priority list of methodology determinations.

In the development of priority methodologies, it is imperative that there is **adequate public consultation**. As noted by ALCA in its submission, the initial priorities for methodologies will set the standard and direction of the Market, and should reflect the depth, breadth and quality we want from methods going forward.

First and foremost, **all methods should include the option to permanently protect land** the subject of a biodiversity project, as a way of achieving the 'gold standard' (and thereby market premium) in delivery. This can apply whether the project relates to management, restoration or protection.

In addition, the priority list of methodology determinations should include:

1. a **permanent protection method**: as noted above, the development of a permanent protection method should be the highest priority for the Market, particularly in the context of the Government's commitment to '30 by 30'. To ensure integrity of this method:
  - a. permanence should be delivered by Australian land trusts capable of entering into in-perpetuity, on-title agreements with landholders. Preferably the land trust should have a stewardship program to provide oversight and support to landholders as they implement their project; and
  - b. biodiversity projects the subject of this method should focus on protecting state or federally recognised threatened species, in accordance with requirements for qualifying for the Natural Reserve System.
2. a **habitat improvement method**: this method would focus on increasing the condition of low quality remnant vegetation sites, such as infill and supplementary plantings, and pest and weed management. It could apply to existing protected sites, OECM (Other Effective Area-Based Conservation Measures) sites, and new sites.

3. a **biodiverse revegetation method**: this method could stand alone or dovetail with existing carbon methods, allowing a stacked approach.
4. a **biodiverse farm method**: this method would focus on managing or establishing areas for biodiversity, connectivity, and enhanced productivity (for example, biodiverse revegetation strategically located to achieve wind breaks for shade and shelter). The gold standard for this method would include permanent protection via a 'farm covenant' or equivalent.

We would be happy to elaborate on any aspects of this submission and look forward to providing input into the development of this Market as it moves forward.

Kind regards



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