



Environmental
Defenders Office

Submission on the ongoing development of the Nature Repair Market

11 May 2026

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 40 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

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Submitted to:

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Acknowledgement of Country

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past, present and emerging, and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations cultural heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises self-determination as a person's right to freely determine their own political status and freely pursue their economic, social and cultural development. EDO respects all First Nations' right to be self-determined, which extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

Executive Summary

1. Environmental Defenders Office (**EDO**) welcomes the opportunity to engage on the ongoing development of the Nature Repair Market and provide feedback on the following documents that have been released for public consultation:
 - Nature Repair Market issues paper: Policy settings to enable the Market to supply environmental offsets
 - Nature Repair Market issues paper: Supporting threatened species and threatened ecological communities in Nature Repair Market projects
 - Nature Repair Market issues paper: Rules to support Market integrity and administration
2. Collectively, the issues papers outline proposed changes to the Nature Repair Market to allow for environmental offsetting within the Market framework, following amendments made to the *Nature Repair Act 2023* (**Nature Repair Act**) in late 2025. Those amendments provide that a biodiversity certificate issued under the Nature Repair Act may be used for an environmental offsetting purpose. Prior to those legislative amendments, the Nature Repair Market was unable to be used to deliver environmental offsets.
3. We understand that the intention is for environmental offsets created under the Nature Repair Market to be used to satisfy offset obligations under the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**). For that reason, alignment between the Nature Repair Market and the EPBC Act is needed, with the Nature Repair Market requiring substantial overhaul to accommodate environmental offsetting. We are concerned that development of the Nature Repair Market is being pursued before the reformed offsets framework under the EPBC Act is in place. Notably, the National Environment Standard for Environmental Offsets has not been finalised, and indeed, further public consultation on that draft Standard is required. Additionally, other guidance and policies, including an updated offsets calculator, also need to be finalised. It is premature to pursue changes to the Nature Repair Market to allow for environmental offsets until it is known exactly what is required of those offsets to meet EPBC Act requirements. Further, piecemeal design of the offsets framework without a clear, overarching architecture risks inconsistencies, misalignment and perverse outcomes.
4. We are also concerned that other key issues have not been explored within the policy papers including, for example:
 - The interaction between a federal offsets Market and existing state and territory markets.
 - The process for cancelling (i.e. retiring) biodiversity certificates once they have been used to fulfill offset obligations.

- How other processes may need to be changed to accommodate for offsets-capable projects, such as varying or re-stratification of biodiversity projects, or accounting and reporting requirements.
5. Our more detailed feedback on each of the three policy papers is set out in the following section of our submission, and our key recommendations are summarised in the Box below.

KEY RECOMMENDATIONS

Recommendation 1: Finalise fundamental elements of the EPBC Act offsets framework, including the Offsets Standard, before further developing the Nature Repair Market, and ensure alignment and consistency across the entire framework.

Recommendation 2: Ensure new methods developed under the Nature Repair Act deliver biodiversity outcomes that are capable of compensating for impacts of development, for example by adopting core principles such as ‘like-for-like’ outcomes.

Recommendation 3: Develop specific transparency and accountability mechanisms for offset-capable projects, including:

- ensuring offset-capable projects cannot be used to report a ‘gain’ in biodiversity outcomes (e.g. as part of Australia’s broader nature reporting), because the ‘gain’ has been used to compensate a loss, and the net outcome is neutral;
- aligning monitoring and reporting requirements with the EPBC Act; and
- ruling out offset and non-offset elements within a single biodiversity project.

Recommendation 4: Establish a mechanism for removing biodiversity certificates from the Market once allocated to offsetting the impacts of a project.

Recommendation 5: Ensure alignment between federal and state and territory offsets markets.

Recommendation 6: Strengthen how the Biodiversity Project Characteristics will apply to offset-capable projects, including by:

- requiring that Ecosystem Condition, Impact of Threats, and Commitment to Protection Characteristics be used, or at least considered, for projects seeking to provide offsets for threatened species and threatened ecological communities;
- requiring that methods should, at the least, propose a minimum set of indicators; and
- ensuring that the proposed scoring system is fit-for-purpose, and aligned with offset requirements under the EPBC Act.

Recommendation 7: Provide greater clarity on how significant reversal of project biodiversity outcomes will be addressed by the Rules, including how this will be managed for offset-capable projects.

Recommendation 8: Ensure the Rules relating to certificate equivalency are clear by:

- clarifying whether, for the purpose of establishing a comparable ecological improvement, replacement certificates need to be in a similar geographical location; and
- explicitly requiring the Clean Energy Regulator to publish information on the Register when an equivalent certificate is relinquished.

Recommendation 9: Give further consideration to the implications of allowing re-stratification or variation of offset-capable projects, in the context of those projects being used to satisfy offset obligations.

Recommendation 10: Maintain the requirement for proponents to submit statutory declarations alongside periodic reports to the Clean Energy Regulator.

Recommendation 11: Undertake further consultation on the specific wording of the draft Rules in due course.

Detailed feedback on policy papers

Nature Repair Market issues paper: Policy settings to enable the Market to supply environmental offsets

6. In response to the issues paper on policy settings to enable the Market to supply environmental offsets, we highlight the following key issues.

Piecemeal design of offsets framework risks inconsistencies, unalignment and perverse outcomes

7. The new federal offsets framework being implemented off the back of reforms to the EPBC Act last year consists of many individual elements, including:
 - New legislative provisions in the EPBC Act
 - The establishment of a new Restoration Contributions Holder
 - A new, stand-alone *Environment Protection and Biodiversity Conservation (Restoration Charge Imposition) Act 2025*
 - A new National Environmental Offsets Standard for Environmental Offsets (Offsets Standard)
 - Policy guidance, including:
 - The offsets calculator (which we understand will be updated)
 - Cost Recovery Implementation Statement of Offset Payments
 - Special Account and Statutory Officeholder Policy
 - Protection statements (which can include information about whether payment of a restoration contribution charge should be available in relation to a residual significant impact)
 - Ministerial rulings (where relevant)
 - Biodiversity certificates issued under the *Nature Repair Act 2023*

8. We are concerned that the piecemeal design and implementation of the offsets framework risks inconsistencies, unalignment and perverse outcomes. Elements of the framework are being developed separately across different timelines and agencies, meaning the framework lacks a clear, overarching architecture.
9. We have already identified (and raised in submissions to the Department of Climate Change, Energy the Environment and Water (**DCCEEW**)) a number of anomalies across the framework, including inconsistent language between the EPBC Act and the draft Offsets Standard and multiple and inconsistent occurrences of ‘net gain’ requirements. We are concerned that by now developing new offsets elements of the Nature Repair Market, before other components of the offsets framework are finalised, further anomalies may arise. To ensure that offset requirements are clear for proponents, and more importantly, to ensure that offsets deliver genuine environmental outcomes, the framework must be unambiguous and robust with clear alignment and consistency across all elements.

Recommendation 1: Finalise fundamental elements of the EPBC Act offsets framework, including the Offsets Standard, before further developing the Nature Repair Market, and ensure alignment and consistency across the entire framework.

The Nature Repair Market requires substantial overhaul to accommodate environmental offsetting

10. In its current form, the Nature Repair Market, including the Nature Repair Act is not designed to be used for environmental offsetting, and accommodating environmental offsets within the Market requires more than a few tweaks and add-ons.
11. It is not simply a matter of stating that biodiversity certificates created under the Nature Repair Act can be used as environmental offsets. Elements to support this change are also required including:
 - ***The development of methods that are capable of delivering offsets.*** As recognised in the policy papers, current methods are not suitable, and a new method/s will need to be developed to deliver biodiversity outcomes that can compensate for impacts of development, for example by adopting core offsetting principles such as ‘like-for-like. At a minimum, methods must meet EPBC Act offset requirements (given it is intended for environmental offsets created under the Nature Repair Market to be used to fulfill EPBC Act offset obligations). There is also an expectation that the methods will have integrity and deliver genuine environmental outcomes.
 - ***Separate accountability mechanisms.*** Where biodiversity certificates are used as environmental offsets, it is for the specific purpose of compensating for the impacts of

development etc. Therefore, specific transparency and accountability mechanisms will be required. For example:

- Offset -capable projects cannot be used to report a ‘gain’ in biodiversity outcomes (e.g. as part of Australia’s broader nature reporting), because the ‘gain’ has been used to compensate a loss, and the net outcome is neutral. Reporting on offsets-capable projects should therefore be undertaken separately to reporting on other biodiversity projects.
- Monitoring and reporting of offset-capable projects needs to align with monitoring and reporting requirements of the EPBC Act in order to meet the requirements of that Act.
- Having offset and non-offset elements within a single biodiversity project may be problematic and should be ruled out.

- ***A mechanism for ‘retiring’ (i.e. cancelling) certificates that have been used as offsets.***

While the Nature Repair Act does have provisions allowing or requiring certificates to be relinquished, the reasons for relinquishment include that a biodiversity certificate has been issued based on false or misleading information or there has been a reversal of biodiversity outcome, and in circumstances prescribed by the rules (of which none are currently prescribed). Relinquishment is also not equivalent to removing a biodiversity certificate from the Market.

There is currently no mechanism for ‘retiring’ a biodiversity certificate where it has been used to satisfy offsetting requirements (e.g. to meet approval conditions of an EPBC Act approval). This is an essential part of an offsets market. When used as an offset, any benefits delivered by a biodiversity project under a biodiversity certificate are essentially ‘allocated’ for the purpose of offsetting the impact of a development project. The benefits can no longer be used or attributed for another purpose (e.g. sold as another offset, or to a business seeking to bolster its environmental credentials), and the biodiversity certificate needs to be removed from the Market (but the biodiversity project continues in order to keep delivering the benefit). The obvious analogy here is the cancellation of Australian Carbon Credit Units (**ACCUs**) when used to offset greenhouse gas emissions. This is done by permanently removing the relevant ACCUs from the Australian National Registry of Emissions Units (ANREU). A similar mechanism must be built into the Nature Repair Market.

It is unclear how the Nature Repair Market will interact with state and territory frameworks

12. The policy paper states: “Market projects could be used for environmental offsets by states or territories. However, state and territory agencies are responsible for determining the suitability of offset-capable Market projects in meeting their own offset requirements”.
13. Beyond that, there is no clear explanation of how the Nature Repair Market will interact with existing offsets markets in states and territories, including:
 - if there is demand for a federal offsets market;

- whether offsets obtained from state and territory markets can continue to be used to meet EPBC Act offset obligations (as is currently the case); and
 - whether the Nature Repair Market is being designed taking into account the policy settings of state and territory offsets frameworks.
14. Given broader moves to better align federal and state and territory processes, including through the Common Assessment Method (for the listing of threatened species), and the accreditation of state and territory assessment and approval processes under the EPBC Act where consistent with new National Environmental Standards and other requirements, it would make sense to give further consideration to alignment between federal and state and territory offsets markets. However, we note our ongoing concerns that, to date, draft National Environmental Standards, have fallen short of providing clear and outcomes-focused criteria that will lift outcomes for nature.¹ Further work is needed to ensure that National Environmental Standards and the Nature Repair Market raise the bar from business-as-usual and deliver genuine outcomes for the environment that reverse biodiversity decline and restore nature.

Recommendation 2: Ensure new methods developed under the Nature Repair Act deliver biodiversity outcomes that are capable of compensating for impacts of development, for example by adopting core principles such as ‘like-for-like’ outcomes.

Recommendation 3: Develop specific transparency and accountability mechanisms for offset-capable projects, including:

- ensuring offset-capable projects cannot be used to report a ‘gain’ in biodiversity outcomes (e.g. as part of Australia’s broader nature reporting), because the ‘gain’ has been used to compensate a loss, and the net outcome is neutral;
- aligning monitoring and reporting requirements with the EPBC Act; and
- ruling out offset and non-offset elements within a single biodiversity project.

Recommendation 4: Establish a mechanism for removing biodiversity certificates from the Market once allocated to offsetting the impacts of a project.

Recommendation 5: Ensure alignment between federal and state and territory offsets markets.

¹ EDO’s submission on draft National Environmental Standards are available on our website, including:

- EDO, Submission on the draft National Environmental Standard (Matters of National Environmental Significance) 2025, 30 January 2026, <https://www.edo.org.au/wp-content/uploads/2026/02/260130-EDO-Submission-Draft-MNES-Standard.pdf>
- EDO, Submission on the draft National Environmental Standard (Environmental Offsets) 2025, 30 January 2026, <https://www.edo.org.au/wp-content/uploads/2026/02/260130-EDO-Submission-Draft-Environmental-Offsets-Standard.pdf>
- EDO, Legal update on the updated draft of the National Environmental Standard for Matters of National Environmental Significance, 5 May 2026, <https://www.edo.org.au/2026/05/05/significant-backwards-step-on-key-draft-epbc-standard-must-be-addressed/>

Nature Repair Market issues paper: Supporting threatened species and threatened ecological communities in Nature Repair Market projects

15. As outlined in the policy papers, the Nature Repair Market measures biodiversity outcomes through a suite of Biodiversity Project Characteristics (**Characteristics**), rather than a single metric. It is proposed that projects seeking to provide offsets for threatened species and threatened ecological communities, will be required to use the Threatened Species Characteristic. We understand that at this stage, DCCEEW is still considering how methods might allow offset-capable projects for other matters of national environmental significance.
16. In response to the issues paper on supporting threatened species and threatened ecological communities in Nature Repair Market projects, we note the following key issues:
 - In our view other Characteristics (and not just the Threatened Species Characteristic) are also relevant and interlinked with the Threatened Species Characteristic, including Ecosystem Condition, Impact of Threats, and Commitment to Protection. These characteristics should also be required to be used, or at least considered, for projects seeking to provide offsets for threatened species and threatened ecological communities.
 - We are concerned with the proposal that the method would allow Market project proponents to identify appropriate indicators and thresholds, rather than for the method itself to specify the indicators (which is allowed under the *Nature Repair (Biodiversity Assessment) Instrument 2025 (BAI)*). Allowing project proponents to establish indicators may lead to inconsistencies and give rise to potential conflicts of interest, and risks undermining the integrity of the system. Methods should, at the least, propose a minimum set of indicators.
 - We have concerns about the design of the scoring factor, including:
 - How will the individual species-level scores interact with the offsets calculator? Will the impact-species score be used to match with an impact calculation to determine suitable offsets? In general, it is unclear how the application of the characteristics for the purpose of applying a method will interact with the offsets calculator (which is used for the purpose of determining offset obligations), particularly given the position paper states that “proponents can prepare a single, consistent evidence base that can be used for both market participation and offset suitability assessments under the [EPBC Act]”.
 - The presumption that scoring will stay the same over the life of the project. How can the scoring factor remain the same over the life of the project if the scoring factors change (e.g. if a species’ range changes due to something like climate change), even if the change is beyond the control of the proponent?

Recommendation 6: Strengthen how the Biodiversity Project Characteristics will apply to offset-capable projects, including by:

- requiring that Ecosystem Condition, Impact of Threats, and Commitment to Protection Characteristics be used, or at least considered, for projects seeking to provide offsets for threatened species and threatened ecological communities;
- requiring that methods should, at the least, propose a minimum set of indicators; and
- ensuring that the proposed scoring system is fit-for-purpose, and aligned with offset requirements under the EPBC Act.

Nature Repair Market issues paper: Rules to support Market integrity and administration

17. We would generally support amendments to the Rules to improve the integrity and administration of the Market.
18. In response to the specific matters raised in the issues paper, we provide the following feedback.

Significant reversal of project biodiversity outcomes

19. The Rules need to address the scenario of a significant reversal of biodiversity outcomes occurring after a biodiversity certificate has been “retired” in order to meet an offset obligation. If that was to occur, there is the additional risk that full compensation of impacts would not be achieved (i.e. the offset would not be delivered in full). Is that risk accounted for somewhere in the system, and/or are specific changes needed to address this scenario?
20. DCCEEW proposes that the Rules would prescribe the following circumstances be considered as a significant reversal:
 - One or more indicators for an applicable Characteristic has fallen below its threshold value.
 - The Clean Energy Regulator (**CER**) is satisfied that the indicator, or indicators, could not be restored above its threshold value within a reasonable period.
 - The CER has not extended the project’s permanence period after the reversal.

It is unclear if just one, or all, of these circumstances would need to be met to establish a significant reversal.

Recommendation 7: Provide greater clarity on how significant reversal of project biodiversity outcomes will be addressed by the Rules, including how this will be managed for offset-capable projects.

Defining certificate equivalency for relinquishment of biodiversity certificates

21. It is unclear whether, in determining whether there is a comparable ecological improvement, the replacement area would need to be in a similar geographical location.
22. We support the proposal that the CER will publish information on the Register when an equivalent certificate is relinquished. This should be explicitly required by the Rules.

Recommendation 8: Ensure the Rules relating to certificate equivalency are clear by:

- clarifying whether, for the purpose of establishing a comparable ecological improvement, replacement certificates need to be in a similar geographical location; and
- explicitly requiring the Clean Energy Regulator to publish information on the Register when an equivalent certificate is relinquished.

Updates to the Rules to streamline Market administration and support participation

23. It is unclear if National Biodiversity Assessment System (NBAS) scores will have any role to play in the context of the offsets market (i.e. in determining if offset obligations could be met), or whether they will simply continue to be a tool to compare the biodiversity benefits of Nature Repair Market projects and inform investment decisions.
24. Further consideration needs to be given to whether 're-stratification', or otherwise varying a biodiversity project, could be allowed for offset-capable projects. This is because those projects are being relied on to meet offset obligations, and if varied, there is a risk that the project will no longer adequately compensate for relevant impacts, as intended when the biodiversity certificate was allocated as an offset to a development project.
25. Removing the requirement for proponents to submit statutory declarations alongside periodic reports to the CER is a backwards step. This is an important measure for building integrity into the framework and should be maintained. While we recognise that other measures, such as extensive auditing and information-gathering powers, and offences for providing false and misleading information also exist, the requirement to provide a statutory declaration is an upfront measure that puts the onus on proponents to demonstrate they are acting with integrity, rather than relying on the regulator to enforce breaches once a proponent has acted inappropriately.
26. We recommend that further consultation is undertaken on the specific wording of the draft Rules in due course.

Recommendation 9: Give further consideration to the implications of allowing re-stratification or variation of offset-capable projects, in the context of those projects being used to satisfy offset obligations.

Recommendation 10: Maintain the requirement for proponents to submit statutory declarations alongside periodic reports to the Clean Energy Regulator.

Recommendation 11: Undertake further consultation on the specific wording of the draft Rules in due course.