

Nature Repair Market Bill 2023 (Exposure Draft)

Submission by Dr John S Benson (Ecologist)



Planning hard pan soil conservation ripping for revegetation of saltbush, near Nyngan central New South Wales 2017. Photo JS Benson.



Australian Government officials assessing extensively cleared Poplar Box grassy woodland threatened ecological community near Toowoomba, Queensland, 2015. Photo JS Benson.

My Experience

I make this submission in response to the Department's invitation to comment on the Exposure Draft Nature Repair Market Bill 2023 (the Bill).

I have a doctorate in vegetation science and from 1977 to 2014 held ecological / conservation planning positions in New South Wales National Parks and Wildlife Service and the Royal Botanic Gardens Sydney. I helped establish the NSW protected area system including protecting rainforest, contributed to major environmental impact assessments, undertook extensive vegetation classification and mapping, developed corporate database information systems for threatened plant species and ecological communities. Furthermore, I wrote the first plant species recovery plan for the Australian Government and the first such plans in NSW. I initiated an international protocol within the World Conservation Union (IUCN) on risk assessment of ecosystems and risk-assessed 600 inland NSW plant communities. I advised on environmental laws including the NSW Threatened Species Conservation Act 1995 and the NSW Native Vegetation Conservation Act 1998 and later iterations. From 1987 I advocated for private land conservation programs and provided data for the listing of 40 Threatened Ecological Communities under the EPBC Act and NSW laws. I held membership of State and national threatened species and natural resource management committees dealing landscapes and natural habitats.

Comments on and questions about the Nature Repair Market Bill

The greatest threats to biodiversity in Australia are habitat loss, competition from introduced species and climate change. Action towards addressing those threats should be a priority.

Of utmost importance and more so than the Nature Repair Market (the Market) initiative, is updating and strengthening the EPBC Act drawing on the Samuels Review. I would suggest incorporate triggers and stronger compliance.

From the outset offsets should be ruled out of this Bill's Market scheme because they lead to net loss generally whereas this scheme aims to be nature positive. However, it is difficult to see how the Bill's certificates won't be used as offsets ... at some stage.

I assume well-qualified environmental law practitioners will comment on the clauses in the Bill, so I will focus on general issues.

My comments are:

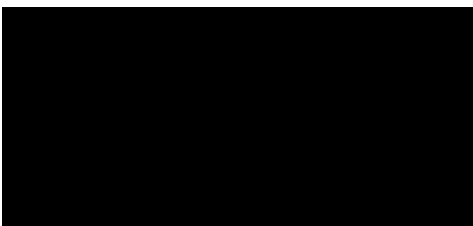
1. There is a presumption that large sums of private money will flow to this proposed Biodiversity Repair Market based on limited evidence. If offset credits are not issued private funding is likely to be limited. And if offsetting is allowed it could damage biodiversity given recent the number of revelations on State offset schemes.
2. It is not clear how the Bill's market will relate to various State offsetting and land caveat programs. Some States have developed biodiversity offset calculators for estimating loss or gain. It is unclear if the Market will draw on those calculators or develop a new system of biodiversity change assessment;
3. How will the biodiversity certificates be assessed, and will they be extensions of carbon credits and if so how will both schemes intertwine?
4. How will priorities be set for distribution of funds to effect improvement in biodiversity? Baseline habitat classifications vary across Australian States, other than IBRA Bioregions and

An Atlas of Australia vegetation map produced by John Carnahan in 1976 updated in 1990, there are few standardised classifications as each and territory “has done its own thing” in this realm of science. Organisations such as TERN are assembling site data (soils, vegetation etc) but those sites remain scattered.

5. Will biodiversity certificates be based on projected gains or attained verified gains?
It appears the proposed biodiversity certificates are to certify activities (reforestation, destocking, fencing, fish quota cuts?), rather than measurable outcomes such as increased habitat area, changes in the populations of target native species or improvements in soil health etc.
6. If certificates are used to serve as a form of offset, it is unclear how the expenditure will apply the “Like for Like” rule that is fundamental to offset schemes.
7. The Bill mentions marine systems but land beyond low tide is owned / administered by the States (out to the “three-mile limit”) and beyond that the Commonwealth. It is not private land so it is unclear how the proposed market will apply there unless it affects marine bio take;
8. There is a lack of clarity in the Bill on how the proposed Market will interact with the EPBC Act offset policy or the underused part 14 sections 304-312 of the EPBC Act dealing with private land caveats.
9. The Market scheme should not issue biodiversity certificates as compliance offsets for biodiversity damage elsewhere as this often leads to net loss of biodiversity.
10. The proposed EPA, once established, could be better placed to administer the Market than the Clean Energy Regulator, as the latter does not have expertise in biodiversity and the scheme should not necessarily be mixed in with Carbon Credits. Aspects of the Carbon Credits scheme were criticised in the Chubb Review.
11. Public investment of, for example, \$1 billion may encourage private equity to follow given the voluntary nature of the proposed Nature Review Market scheme but even so, there remain issues around compliance and reporting.
12. It is pivotal to measure and report on enhancements (success) in biodiversity with payments, but it is unclear how that will happen. For example, will there be permanent monitoring plots established measuring bio-parameters, or the use of satellite imagery to monitor coarse level change?

Finally, I reiterate that this proposed Market scheme should not serve as a substitute to boosting existing environmental laws including compliance therein. Nor should it replace the need to keep building the Australian protected area system to meet the Biodiversity Convention 30:30 target. Given that section 92 of the Australian Constitution allocates powers on land and coastal sea management to the States, it remains important for the Commonwealth Government to complement and enhance State programs demonstrated to be helping protect biodiversity. As an alternative, a billion dollars allocated between NSW, Victoria and Tasmania could go a long way to assist the transition of native forest logging to plantations.

Yours faithfully,



Dr John S Benson