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AGL Response to Nature Repair Market Bill 2023 and Nature Repair Market (Consequential Amendments) Bill 2023

AGL Energy (AGL) welcomes the opportunity to respond to the consultation drafts of the Nature Repair Market (NRM) Bill 2023 and Nature Repair Market (Consequential Amendments) Bill 2023 (the Bills).

AGL is a leading integrated essential service provider, delivering 4.3 million gas, electricity, and telecommunications services to our residential, small, and large business, and wholesale customers across Australia. We operate Australia's largest electricity generation portfolio and have the largest renewables and storage portfolio of any ASX-listed company, having invested billions over two decades in renewable and firming generation.

AGL accepts the science on climate change and supports policy action to meet Australia's commitments under the Paris Agreement, including the commitments to reach net zero emissions by 2050. In September 2022, AGL released its inaugural Climate Transition Action Plan (CTAP) under the Say On Climate initiative, which states AGL's updated ambition for decarbonisation, including the following commitments:

- Targeting a full exit from coal-fired generation by the end of FY35 (up to a decade earlier than previously announced).
- Ambition to meet customer energy demand with around 12 GW new firming and renewable assets by 2036.
- An initial target of 5 GW new firming and renewables by 2030.

AGL recognises the impact that climate change has on biodiversity and supports the Australian Government's commitment to protect 30% of Australia's land and seas by 2030. AGL has committed to repurposing its large thermal generation sites into low carbon industrial energy hubs with a focus on sustainability through this transition through large-scale recycling opportunities and minimising the biodiversity impact.

AGL also recognises the importance of supporting and working in partnership with First Nations people and the interconnection between cultural knowledge and practices and biodiversity. In 2021, AGL launched its Reconciliation Action Plan (RAP) to help deliver on its vision for reconciliation - a unified and inclusive Australia where Aboriginal and Torres Strait Islander peoples are respected and have equal voice, rights and opportunities for prosperity.

With operations across multiple states, AGL has significant experience in developing renewable projects and the regulatory obligations under both state and federal legislation to carry out comprehensive environmental assessments of the potential impacts of these projects on nature.



AGL is already a participant and advocate in a number of environmental markets across carbon, renewables and energy efficiency.. These experiences have been drawn on in preparing this submission and in addressing opportunities and risks of the proposed Nature Repair Market (NRM).

State biodiversity market interaction

Many states already have a functioning biodiversity market in one form or another. It is unclear how the proposed voluntary Commonwealth NRM will interact with these state biodiversity markets and whether a landholder can receive a credit or funding under multiple schemes. Careful consideration should be given to the relationship between state and Commonwealth markets to ensure that market integrity is not compromised.

In addition, voluntary demand under the NRM may divert biodiversity credit supply from the mandatory state schemes and it is not clear how states would address a possible supply shortage. For example, a report by the NSW Audit Office found that the Biodiversity Conservation Trust (BCT) in NSW is already experiencing growing acquittal obligations for biodiversity offsetting as project developers looking to offset pay into the fund rather than enter into Biodiversity Stewardship Agreements (BSAs). It is unclear how this growing liability will be managed into the future and whether there is sufficient funding to purchase like-for-like credits. It is critical that careful consideration be given to how the NRM will link with current and future biodiversity markets to minimise adverse impacts.

Carbon market interaction

Given the proposed NRM will run in parallel with the carbon market, there are many factors that need to be considered and AGL urges the government to investigate the interactions between both markets to improve efficiency and maintain integrity.

It is critically important to clarify the interplay of carbon and biodiversity credits for the same project, particularly around the risk of double counting and the impact of co-benefit stratification in these markets. For example, we agree with many of the findings of a [PWC report](#) examining the value of an Australian biodiversity market, which noted that “there is a risk that a forest offsets-based biodiversity market may facilitate ‘double dipping’, where providers of biodiversity credits are able to sell the same credit in both carbon and biodiversity markets”. AGL questions whether the added complexity of different credits for the same parcel of land will result in a highly stratified market e.g., ACCUs with a biodiversity co-benefit. AGL urges the government to consider the implications of these two markets running in parallel and ensure interactions are aligned with market intentions.

In terms of efficiencies between carbon and biodiversity projects, the markets should be aligned as much as possible to reduce administrative burden and costs. Permanence requirements for land set aside in the NRM should be consistent with carbon markets, where possible, and consideration should be given to the relationship between registration and auditing requirements for both project types.

The rationale for the proposed issuance of one certificate for each biodiversity project, rather than issuance on the basis of land size, biodiversity potential, or other attributes, is not well established. This could be seen to discourage the participation of landholders with large parcels of land who seek



value in their land from other activities. Furthermore, as seen with carbon markets, biodiversity markets are likely to encourage more competition for land, with biodiversity competing with other land uses such as agriculture and renewable energy projects. It is also unclear whether international linkages have been considered as part of the NRM; however, as with the ACCU market, international linkages could add a layer of complexity and possibly lead to adverse effects. AGL seeks more clarity on these points.

Additionally, AGL urges the government to consider how biodiversity credits will trade and whether there will be a platform to provide visibility and encourage participation. AGL notes that the government is currently working on developing an ACCU exchange but it is unclear whether this exchange will also capture other units such as biodiversity credits.

Reducing barriers to market participation

It is essential that barriers to entry in the NRM are minimised to encourage wider participation, improve liquidity, and create a more efficient market. From AGL's experience as a project proponent and land manager, there are several complexities and challenges associated with land stewardships under similar schemes such as the NSW biodiversity offsets scheme. Meeting obligations can be complex, especially with large projects where plans can evolve as projects progress. As such, AGL recommends the following to reduce barriers and encourage participation in the scheme:

- Ensure there is market equality in the distribution of offset credits for project developers wishing to meet their obligations by developing their own biodiversity site.
- Reduce upfront fees and costs of environmental assessments where possible, e.g., we note that under the NSW scheme, the BCT has sought to increase BSA application fees ten-fold.
- Provide transparency in market pricing and supply/demand where possible to increase liquidity e.g., through establishment of a public register.
- Provide support around simplifying complex scheme rules and tax implications.
- Accelerate timeframes for establishment of biodiversity sites on private land.
- Allow for before-and-after construction assessments of the impacted biodiversity area to provide an economic incentive for project developers to minimise the land footprint of their projects.
- Provide a point of contact for project developers to the entity managing the scheme to facilitate compliance activities where offsets are required.
- Provide clarity around who can participate in the NRM and associated implications e.g., large international organisations competing for land in Australia with smaller domestic participants.

Supporting the energy transition

The decarbonisation of the energy system is a significant task. Development of new renewable generation build will need to rapidly accelerate to meet Australia's net zero by 2050 target, especially under more ambitious decarbonisation pathways that are aiming to achieve proposed "export superpower" ambitions. Government should carefully design the NRM to support this aspiration,



considering any additional barriers that it may introduce to renewable energy project developers and building in mechanisms to facilitate project approvals where possible.

Australia's environmental laws are set to be reformed as part of the Nature Positive Plan, aiming to better protect, restore and manage Australia's unique environment. In the reform of these laws, it is worthwhile keeping in mind the plethora of state and federal environmental legislation renewable energy project development plans must already comply with. Alignment of these laws could simplify project approvals processes and enable the rapid roll out of projects needed in the future.

Government could support the energy transition by adopting a more targeted approach to assessing biodiversity impact assessments for Renewable Energy Zones (REZs). This could be in the form of additional state or federal government resourcing for these specific areas to provide a direct point of contact to help project developers meet their requirements. AGL greatly values the direct interactions and access we have with government officials from state biodiversity schemes. These direct channels of communication allow for discussion of the intricacies of complex project development, assisting to often reduce lengthy project delays.

Integrity and transparency

As a general principle, the scheme should seek to minimise negative impacts on biodiversity with the provision of offsets being implemented as a final step of the mitigation hierarchy. AGL acknowledges and supports the Australian Government plans to legislate a new National Environmental Standard to ensure that offsets are used as a last resort, noting that development of this standard is currently underway and due to be issued for consultation later this year. As with carbon, there is likely to be a strong focus on greenwashing in biodiversity markets and so consideration needs to be given to biodiversity claims made and whether biodiversity credits will be accredited under any accreditation programs.

To maximise transparency and promote public trust and confidence in biodiversity credits, the national registry for biodiversity credits should be designed to facilitate more visibility of market information and data.

Roles and resourcing

It is important to ensure that the roles of scheme administrators are clear and transparent and that appropriate safeguards are in place to minimise conflicts of interest. The recent review of the ACCU market by an independent expert panel (Chubb Review) resulted in similar recommendations for administration of the ACCU market. AGL supports the intention of the Bills to establish an expert technical committee – the Nature Repair Market Committee – to review methodologies, set rules and advise the Minister on compliance with integrity standards outlined in the Bills. A clear governance structure is important whereby the allocation of functions is across separate entities to drive scheme efficiency and integrity.

The Clean Energy Regulator (CER) holds a number of current and proposed future functions and responsibilities such as ERF governance (developing methods, regulating projects, and issuing ACCUs); Guarantee of Origin (GO), Renewable Electricity Guarantee of Origin (REGO) and National Greenhouse Emissions Reporting (NGER) scheme administration, and potentially other climate-



related transparency reporting measures. We therefore reiterate the need for enhanced resourcing for the CER to adequately perform these functions.

Clear goals and performance measures

To enable the success of the NRM, it is critical the governments set clear short and long-term targets and clearly state the measures of progress towards these targets to provide stability and clarity to participants enabling appropriate investment. Given the NRM will be voluntary and, as such, there won't be a liability on participants to drive demand, there will need to be clear investment signals to drive supply and demand.

In order to evaluate the scheme's performance in reaching biodiversity goals, clear reporting measures and assessment targets will need to be outlined to accurately assess the scheme's contribution to state and Commonwealth biodiversity goals. The Bills state that there will be an assurance and compliance framework to maintain integrity and provide confidence; however, this is currently lacking in detail.

First Nations interests

Given the strong connection to country, it is essential that First Nations Australians have close involvement in the design and implementation of any biodiversity market to ensure that their interests are being addressed. This should be consistent with the recommendations of the Chubb Review whereby First Nations Australians are encouraged to participate and benefit in the scheme utilising best practices in consultation and consent.

Key learning from other markets

There are many learnings that can be taken from existing markets to set the NRM up for optimal function from scheme commencement. A [2022 review](#) of the NSW biodiversity market by the Audit Office of NSW concluded that its integrity, transparency and sustainability was insufficient and that the market was not well developed after five years. The review found that appropriate safeguards were not in place, supply was insufficient due to barriers to entry and inadequate support, and biodiversity outcomes were questionable. Several recommendations were made to address these shortcomings, including clarification around roles and responsibilities, increased transparency and publication of market information, and improved strategy and reporting to ensure that the scheme is fit-for-purpose.

The ACCU market has also been scrutinised recently with the Chubb Review providing several recommendations to improve its integrity and performance. Some of these recommendations included ensuring adequate resourcing, clearly identifying/separating roles and responsibilities of scheme administrators and improving transparency of the market through publication of market data.

AGL urges the government to take learnings from other schemes when designing and implementing the NRM. We also recommend that the government regularly review the functioning of the NRM and its biodiversity outcomes to ensure that appropriate signals are being provided to the market to encourage nature repair and restoration.



If you have any queries about this submission, please contact Siobhan Bradley (Policy Manager) at sbradley4@agl.com.au.

Yours sincerely,

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