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Nature Repair Market

AGL Energy (AGL) welcomes the opportunity to make a submission in response to the Discussion Paper – Operating the Nature Repair Market (Consultation Paper).

Proudly Australian since 1837, AGL delivers around 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 \$4.8 billion in renewable and firming generation over the past 20 years and added more than 2,350 MW of new generation capacity to the grid since 2003.

We support Australia's ambition of net zero by 2050 and believe this will underpin the competitiveness of the Australian economy. As the global community responds to the risks of climate change, AGL recognises the large part that we must play in the transition to a low carbon economy. Our 2022 [Climate Transition Action Plan](#) (CTAP) outlines AGL's 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 of 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. The [AGL Biodiversity Policy](#) outlines our commitment to minimising direct impacts on biodiversity in the areas where we operate, and promoting sustainable practices to protect and enhance the diversity of plants, animals and their habitats.

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. We also participate in various environmental markets across carbon, renewables and energy efficiency and were an active participant in the Taskforce on Nature-related Financial Disclosures (TNFD) pilot. These experiences have informed our response to this consultation on the rules that will support the operation of the Nature Repair Market (NRM).

This submission's key points are summarised as follows:

- AGL broadly supports environmental reforms underway, and the NRM's aim to provide positive outcomes to biodiversity. However, we hold concerns around the sequencing of legislation.
- We have some concerns around the performance of market-based mechanisms in supporting biodiversity and urge that consideration be given to supporting credible biodiversity claims.

- It is critical that clear biodiversity goals and outcomes are set, and the government outline the measures of progress towards these. Independent modelling of demand would support this.
- Careful consideration should be given to the interaction with other schemes and clarity provided around how the proposed safeguards against double counting work in practicality, to ensure that market integrity is not compromised.
- Enhanced resourcing of the Clean Energy Regulator (CER) is required to ensure that it can adequately perform its extensive functions.

Sequencing of reforms

As a general principle, the NRM should seek to minimise negative impacts on biodiversity with the provision of offsets being implemented as a final step of the mitigation hierarchy. AGL supports the Australian Government's plans to legislate a new National Environmental Standard as part of the EPBC Act reforms, ensuring that offsets are used as a last resort.

We acknowledge that biodiversity certificates under the NRM are not intended to act as an offset for environmental damage, but rather to deliver positive biodiversity outcomes. We also note that the intention is that the NRM complement other environmental regulation under the EPBC Act as well as offsetting under state schemes. However, we hold concerns around the sequencing of these reforms, with the development of a NRM prior to the delivery of other more substantial standards and regulations, the latter of which will be the strongest driver to improve environmental protections and are earmarked for a later date. In our opinion, the focus and attention should be directed towards implementing the more substantial regulations, to protect nature and biodiversity and effectively set a new baseline for environmental management for the market.

Market considerations and complexities

AGL is broadly supportive of the intent of the NRM to incentivise actions to restore and protect the environment, delivering improved biodiversity outcomes. However, there is limited evidence of these types of schemes having the desired effects, and few examples of those that have managed to scale up. Although state-based schemes are well-established and have been operating for some time, several deficiencies have been identified and the schemes struggle to show results, with uncertainty as to whether damage caused to the environment is actually being mitigated¹.

The NRM could be effective if designed well, as a means to encourage greater investment into nature. However, design of an effective market of this kind has proven difficult. The ACCU Scheme is a good example of this, which has been plagued with issues and concerns around market integrity. There are major questions around credibility of certificates such as carbon offsets, and concerns around leakage, double-counting, conflicts of interest and risks of fraud. Market integrity is a significant issue and is costly to ensure.

Current language within the Nature Repair Act specifies that a certificate can be issued if 'the project is sufficiently progressed to have resulted in, or be likely to result in, the biodiversity outcome for the project'. This appears to imply that biodiversity outcomes don't actually have to be achieved in order for a certificate to be issued, which risks integrity of outcomes.

Additionally, clarity has not been provided to 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. As

¹ See: [Offsetting Native Vegetation Loss on Private Land \(audit.vic.gov.au\)](https://www.audit.vic.gov.au) and [Integrity of the NSW Biodiversity Offsets Scheme](#)



we noted in our 2023 submission to the Nature Repair Market Bill², this may discourage landholders with larger parcels of land from participating as they seek more value from other uses of their land.

For a market to function efficiently and trade with liquidity, it is necessary that certificates are fungible. Unfortunately, biodiversity values are not fungible - they are not a standardised product that can be traded 'like-for-like'. As a result, market participants will be unable to easily assess and compare certificates, which may impact market liquidity. There may also be additional contracting complexities to consider when entering into an agreement for the sale or purchase of a biodiversity certificate around delivery of equivalent/fungible certificates in the case of revocation.

Of particular importance though is the impact to nature disclosures and biodiversity claims from lack of equivalency in biodiversity certificates. Without appropriate guidance, stakeholders will be unable to accurately compare credible claims and companies may be at risk of greenwashing. Consideration needs to be given to how the biodiversity certificates market can be designed in a way that aids market participants to assess the value of certificates while also supporting credible claims by buyers.

We welcome the Consultation Paper's recognition of the value and opportunities for First Nations people to participate in the NRM. It is essential that First Nations people have close involvement in the design and implementation of any biodiversity market, utilising best practices in consultation and consent, to ensure that their interests are being addressed.

Market outcomes and performance measures

As participation in the NRM is voluntary, there are questions on the expected sources of demand for biodiversity certificates. While there is growing stakeholder and public interest in ESG-related disclosures, understanding impacts and reporting on nature, through mechanisms such as the TNFD framework and other emerging frameworks, is still very much in its infancy, particularly in Australia, and unlikely to drive demand in the near-term.

According to the Nature Repair Act's policy impact assessment³, the establishment of the market is based on strong institutional and shareholder interest in participating in biodiversity markets. However, demand appears to be untested, and not supported by any independent modelling or analysis to inform scheme outcomes.

To enable the success of the NRM, and to provide stability and clarity to participants enabling appropriate investment, it is critical that clear biodiversity goals and outcomes are set, and the government outline the measures of progress towards these. Independent modelling of demand would support this. Regular assessment and evaluation of the scheme's performance will help provide assurance that the scheme is operating as intended and is leading to genuine positive outcomes for biodiversity.

Interaction with other schemes

AGL acknowledges and welcomes the government's intent to draw and learn from the ACCU Scheme, including its legislation and recommendations of the 2022 Independent Review of ACCUs. This will help ensure that the market is built to operate with integrity and confidence, while also streamlining operations and aiding in greater participation.

We also welcome that greater clarity has been provided as to how the NRM will interact with other existing schemes, such as the ACCU Scheme and state-based biodiversity schemes. It is essential that there is consistency between schemes in terms of certification attributes (e.g. permanence periods) and audit and

² See: [AGL submission](#) to the Nature Repair Market Bill 2023 and Nature Repair Market (Consequential Amendments) Bill 2023 consultation

³ See: [The Nature Repair Market Bill 2023 – Policy Impact Assessment](#), page 7



compliance requirements, to improve transparency and understanding, and to minimise the cost burden for participation. AGL provided a number of recommendations for reducing barriers to participation in the NRM in its 2023 submission, including, but not limited to: reducing upfront costs, accelerated timeframes for establishing sites, enhanced transparency in market pricing and supply/demand factors⁴.

As noted in the Consultation Paper, stacking projects is permissible, and conditions placed on registration of a biodiversity project are expected to safeguard stacked biodiversity projects from double counting. However, determination of how these conditions will be met is opaque and lacking in detail. Furthermore, it is unclear how a carbon project and a biodiversity project registered on the same site will interact. For example, when registering a project in the NRM that is already a registered carbon project in the ACCU Scheme and is part way through its crediting period, it's not clear how the baseline will be determined for additionality.

Careful consideration should be given to the relationship between biodiversity and carbon abatement schemes, at both state and federal level, to ensure that market integrity is not compromised.

Roles and resourcing

Appropriate resourcing of the CER, who will operate and enforce the scheme, is essential to ensure that the NRM operates efficiently and with high integrity. 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. We note that the CER will administer both the ACCU Scheme and the NRM and that there are natural synergies in doing so. However, the CER also holds various other responsibilities and functions in regard to other current and future schemes such as the Guarantee of Origin Scheme, Large-scale Renewable Energy Scheme, and National Greenhouse Emissions Reporting scheme. We therefore reiterate the need for enhanced resourcing for the CER to adequately perform these functions.

The Consultation Paper outlines that audits must be conducted by a person registered as an auditor under the National Greenhouse and Energy Reporting Act 2007. Biodiversity is complex to measure, and biodiversity assessment instruments are yet to be developed, therefore it is unclear how biodiversity outcomes will be measured. Consideration should be given to the need for significant upskilling of auditors, and sufficient time for doing so, in order to ensure that those who are conducting the audits are equipped to assess and ensure that activities are leading to genuine positive outcomes for biodiversity.

Should you have any questions in relation to this submission, please contact Casey Barkla-Jones at cbarkla@agl.com.au.

Yours sincerely,

AGL Energy

⁴ See: [AGL submission](#) to the Nature Repair Market Bill 2023 and Nature Repair Market (Consequential Amendments) Bill 2023 consultation