



Nature Repair Rules 2024

I, Tanya Plibersek, Minister for the Environment and Water, make the following rules.

Dated 19 December 2024

Tanya Plibersek
Minister for the Environment and Water

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Part 1—Preliminary

1 Name

This instrument is the *Nature Repair Rules 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	24 December 2024

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Nature Repair Act 2023*.

4 Schedule 2

Each instrument that is specified in Schedule 2 to this instrument is amended or repealed as set out in the applicable items in that Schedule, and any other item in that Schedule has effect according to its terms.

5 Definitions

- Note: A number of expressions used in this instrument are defined in the Act, including the following:
- (a) activity period;
 - (b) eligible person;
 - (c) permanence period;
 - (d) project area;
 - (e) project plan;
 - (f) project proponent;
 - (g) registered biodiversity project;
 - (h) relevant land registration official.

In this instrument:

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account number, of a Register account: see subsection 88(3).

Act means the *Nature Repair Act 2023*.

assurance engagement report has the same meaning as in the *National Greenhouse and Energy Reporting (Audit) Determination 2009*.

authorised representative: an individual is an **authorised representative** of a person for a Register account kept in the name of the person if:

- (a) the person has nominated the individual:
 - (i) in the request to open the Register account (see paragraphs 90(1)(c) and (d)); or
 - (ii) under section 99; and
- (b) that nomination has not been revoked under section 100.

digital identity of an individual means a distinct electronic representation of the individual that enables the individual to be sufficiently distinguished when interacting online with services.

document verification service means the service known as the Australian Government Document Verification Service, or that service continuing in existence with a different name.

geospatial data, for an area, means data that:

- (a) describes the locations and characteristics of the features of the area on the Earth's surface; and
- (b) provides details about those features.

holder, of a Register account: see subsection 88(2).

IBRA (short for Interim Biogeographic Regionalisation for Australia) means the geospatial database (including maps) of that name, published by the Department, as existing from time to time.

Note: The IBRA could, in 2024, be viewed on the Department's website (<https://www.dcceew.gov.au>).

identity evidence, for a person, means:

- (a) if the person's identity is to be verified by means of digital identity—the person's digital identity; or
- (b) in any other case—the documents required to be given to the Regulator under Division 1 of Part 21 for that kind of person, and any document identifiers given in place of such documents.

identity service provider means an accredited participant in the system known as the Australian Government Digital Identity System, or that system continuing in existence with a different name, that provides a service that generates, manages, maintains or verifies information relating to the identity of an individual.

Register account, of a person: see subsection 88(1).

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6 Crown lands Ministers

- (1) For the purposes of the definition of ***Crown lands Minister*** in section 7 of the Act:
- (a) the Minister specified in column 2 of an item of the following table (other than item 6) is taken to be the Crown lands Minister of the State or Territory specified in column 1 of that item; and
 - (b) both Ministers specified in column 2 of item 6 of the following table are taken to be the Crown lands Minister for Tasmania.

Crown lands Minister		
Item	Column 1 State or Territory	Column 2 Crown lands Minister
1	New South Wales	Subject to subsection (2), the Minister who administers the <i>Crown Land Management Act 2016</i> (NSW)
2	Victoria	Subject to subsection (2): (a) for an area to which the <i>Land Act 1958</i> (Vic.) applies—the Minister who administers that Act; or (b) for an area to which the <i>Crown Land (Reserves) Act 1978</i> (Vic.) applies—the Minister who administers that Act; or (c) for an area to which the <i>Forests Act 1958</i> (Vic.) applies—the Minister who administers that Act
3	Queensland	Subject to subsection (2), the Minister who administers the <i>Land Act 1994</i> (Qld)
4	Western Australia	The Minister who administers the <i>Land Administration Act 1997</i> (WA)
5	South Australia	The Minister who administers the <i>Crown Land Management Act 2009</i> (SA)
6	Tasmania	(a) the Minister who administers the <i>Crown Lands Act 1976</i> (Tas.); and (b) the Minister who administers the <i>Nature Conservation Act 2002</i> (Tas.) (except for Part 4 of that Act)
7	Australian Capital Territory	The Minister who administers the <i>Land Titles Act 1925</i> (ACT)
8	Northern Territory	The Minister who administers the <i>Crown Lands Act 1992</i> (NT) (except for section 79 of that Act)
9	Norfolk Island	The Minister who administers the <i>Norfolk Island Act 1979</i> (Cth)
10	Australian Antarctic Territory	The Minister who administers the <i>Australian Antarctic Territory Act 1954</i> (Cth)
11	Coral Sea Islands Territory	The Minister who administers the <i>Coral Sea Islands Act 1969</i> (Cth)
12	Jervis Bay Territory, and the external Territories	The Minister who administers the <i>Jervis Bay Territory Acceptance Act 1915</i> (Cth)
13	Territory of Ashmore and Cartier Islands	The Minister who administers the <i>Ashmore and Cartier Islands Acceptance Act 1933</i> (Cth)
14	Territory of Christmas	The Minister who administers the <i>Christmas Island Act 1958</i>

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Crown lands Minister		
Item	Column 1 State or Territory	Column 2 Crown lands Minister
	Island	(Cth)
15	Territory of Cocos (Keeling) Islands	The Minister who administers the <i>Cocos (Keeling) Islands Act 1955</i> (Cth)
16	Territory of Heard Island and McDonald Islands	The Minister who administers the <i>Heard Island and McDonald Islands Act 1953</i> (Cth)

- (2) If more than one Minister administers an Act mentioned in item 1, 2 or 3, the Minister who is responsible for the administration of the Act in respect of a particular area of land is the Crown lands Minister for the State or Territory in respect of that area of land.

7 Information required to be included in project plans

For the purposes of paragraph (d) of the definition of **project plan** in section 7 of the Act, the following information is specified:

- (a) if a unique identifier has been assigned for the biodiversity project that the project plan relates to—the unique identifier;
- (b) the name or proposed name of the project;
- (c) a description of the project;
- (d) the date of the project plan;
- (e) the name of the project proponent, or the proposed project proponent, for the project;
- (f) if there are multiple project proponents, or proposed project proponents, for the project—the nominee, or proposed nominee, in relation to the project;
- (g) information about the roles and responsibilities of each person involved in the implementation of the project under the project plan;
- (h) the limitations and assumptions applied in the development of the project plan;
- (i) the details of the person or persons who prepared the project plan.

8 Authorities and bodies that are not statutory authorities

For the purposes of subparagraph (d)(ii) of the definition of **statutory authority** in section 7 of the Act, the following are authorities or bodies that are not statutory authorities for the purposes of the Act:

- (a) an Aboriginal Land Council within the meaning of the *Aboriginal Land Rights Act 1983* (NSW);
- (b) a trust incorporated under the *Aboriginal Lands Act 1970* (Vic.);
- (c) a land trust within the meaning of the *Aboriginal Land Act 1991* (Qld);
- (d) a land trust within the meaning of the *Torres Strait Islander Land Act 1991* (Qld);

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- (e) the Aboriginal Lands Trust established by the *Aboriginal Affairs Planning Authority Act 1972* (WA);
- (f) the Aboriginal Lands Trust within the meaning of the *Aboriginal Lands Trust Act 2013* (SA);
- (g) the Anangu Pitjantjatjara Yankunytjatjara within the meaning of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* (SA);
- (h) the Maralinga Tjarutja within the meaning of the *Maralinga Tjarutja Land Rights Act 1984* (SA);
- (i) the Aboriginal Land Council of Tasmania established under the *Aboriginal Lands Act 1995* (Tas.).

9 Electronic notices transmitted to Regulator

- (1) For the purposes of subsection 9(2) of the Act, this section sets out the requirements for the transmission of an electronic notice to the Regulator.
- (2) An electronic notice must be transmitted using the Regulator's website.
- (3) If an electronic notice is required to be transmitted to the Regulator by the holder of a Register account, the notice must be transmitted by:
 - (a) the holder; or
 - (b) an authorised representative of the holder.

Part 2—Registered biodiversity projects

Division 1—Registration of biodiversity project

10 Operation of this Division

For the purposes of Division 2 of Part 2 of the Act, this Division makes provision for or in relation to the registration of biodiversity projects.

11 Application for registration—other information and documents

- (1) For the purposes of paragraphs 12(2)(f) and (3)(e) of the Act, this section specifies information that must be included in, and documents that must accompany, an application made by an eligible person under subsection 11(1) of the Act for the approval of the registration of a biodiversity project.

Note: For other information that must be included in, and documents that must accompany, the application, see subsections 12(2), (3) and (6) of the Act.

Information and documents about the project proponent

- (2) The following information and documents in relation to the proposed project proponent, or the proposed project proponents, are specified:
- (a) a statement that the applicant is to be registered as the project proponent, or one of the project proponents, for the project;
 - (b) if there is more than one proposed project proponent—the eligible person who is proposed to be the nominee of the project proponents;
 - (c) for each eligible person who is proposed to be a project proponent:
 - (i) evidence that the person is an eligible person; and
 - (ii) evidence that verifies the identity of the person in accordance with the identification procedures in Division 1 of Part 21; and
 - (iii) if a matter specified in, or for the purposes of, section 97, 98, 99 or 99A of the Act (matters that the Regulator must or may have regard to in determining whether a person is a fit and proper person) is applicable, or otherwise relevant, to the person—information, and supporting evidence, about the matter;
 - (d) if the proposed project area is or includes Crown land (whether or not that land is also Torrens system land)—evidence of the notification required by paragraph 12(2)(a) to be given to the Crown lands Minister in relation to the State or Territory in which the area is located.

Note: For paragraph (b), if there are 2 or more eligible persons who are proposed to be project proponents, section 37 of the Act requires one of those persons to be nominated as the nominee in relation to the project. See also section 36 of the Act, which makes provision for references to project proponents if there are multiple project proponents.

- (3) In addition, the form approved in writing by the Regulator for the purposes of paragraph 12(1)(b) of the Act may require the information mentioned in subsection 90(3) to be provided in respect of:

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- (a) an eligible person who is proposed to be a project proponent for the project; or
 - (b) an authorised representative, officer, employee or trustee of the eligible person;
- if the information is relevant to the person.

Information and documents about the project

- (4) The following information and documents in relation to the project are specified:
- (a) the name or proposed name of the project;
 - (b) a description of the project;
 - (c) a statement that the project is being, or is to be, carried on in Australia;
 - (d) the biodiversity outcome for the project;
 - (e) a statement that the project is of a kind specified, for the purposes of paragraph 45(1)(a) of the Act, in the methodology determination (the ***applicable methodology determination***) that is proposed to cover the project;
 - (f) details of how the project meets the conditions set out, for the purposes of paragraph 45(1)(b) of the Act, in the applicable methodology determination;
 - (g) if the applicable methodology determination requires that there must be a project plan for the project—details of how the implementation of the project plan is likely to result in a biodiversity certificate being issued in respect of the project;
 - (h) if the applicable methodology determination does not require that there must be a project plan for the project—details of how the carrying out of the project is likely to result in a biodiversity certificate being issued in respect of the project;
 - (i) if the applicable methodology determination requires an activity period for the project—a statement that the proposed activity period has been worked out in accordance with the determination and evidence supporting the statement;
 - (j) a statement that the proposed permanence period for the project complies with section 34 of the Act;
 - (k) the likely skills and expertise that will be required to carry out the project in accordance with the applicable methodology determination;
 - (l) if stakeholders have been consulted or engaged with in relation to the project:
 - (i) details of the consultation or engagement; and
 - (ii) details of any resulting advice obtained from those stakeholders and how that advice has been considered in the design of the project;
 - (m) if subsection 12(6) of the Act would apply but for subsection 12(7) of the Act—a copy of the declaration mentioned in subsection 12(7) of the Act;
 - (n) details of how the project meets the eligibility requirements specified in section 12;
 - (o) a statement that the project is not an excluded biodiversity project.

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Information and documents about the project area for the project

- (5) The following information and documents in relation to the project area of the project are specified:
- (a) a description of the project area in accordance with the requirements set out in paragraphs 77(2)(a) to (c);
 - (b) a map of, and geospatial data for, the project area;
 - (c) for any part of the project area located on land—the size of that area, in hectares;
 - (d) for any part of the project area located in waters—the size of that area, in square metres or kilometres;
 - (e) if the project area (or part) is, or overlaps with, an area classified by the IBRA as a bioregion—the name of the bioregion;
 - (f) if the project area is or includes a native title area:
 - (i) a statement to that effect and evidence supporting that statement; and
 - (ii) evidence that identifies the part of the project area that is the native title area and whether the native title area is, or is not, an exclusive possession native title area;
 - (g) a statement that the project area meets the criteria for the approval of the registration of the project under paragraph 15(4)(k) of the Act, and evidence in support of the statement;
 - (h) a statement that the project area does not consist of, or include, a biodiversity maintenance area or part of a biodiversity maintenance area.

Information and documents about consents to the carrying out of the project

- (6) The following information and documents in relation to consents to the carrying out of the project are specified:
- (a) if paragraph 15(6)(a) of the Act applies:
 - (i) details of how the requirement in that paragraph has been met; and
 - (ii) if a consent mentioned in subparagraph 15(6)(a)(iv) or (v) of the Act to the carrying out of the project has been obtained—evidence of that consent;
 - (b) if paragraph 15(6)(b) of the Act applies:
 - (i) details of how the requirement in that paragraph has been met; and
 - (ii) if a consent mentioned in subparagraph 15(6)(b)(iv) of the Act to the carrying out of the project has been obtained—evidence of that consent; and
 - (iii) if a consent mentioned in subparagraph 15(6)(b)(v) of the Act to the registration of the project has been obtained—evidence of that consent and details of how the consent to the carrying out of the project is to be obtained before an application is made for a biodiversity certificate in respect of the project;
 - (c) if there are one or more persons (the **relevant interest-holders**) who hold an eligible interest in the project area, or any part of the project area, for the project in respect of whom consents to the registration of the project need to be obtained before an application is made for a biodiversity certificate for the project—for each relevant interest-holder:

- (i) who the relevant interest-holder is; and
- (ii) if the consent has been obtained—evidence of the consent; and
- (iii) if the consent has not been obtained—details of how the consent is to be obtained before the application is made.

Information and documents about regulatory approvals

- (7) The following information and documents in relation to each regulatory approval (if any) required in relation to the project is specified:
 - (a) information about the approval, including the regulatory authority responsible for issuing the approval;
 - (b) if the approval has been issued—a copy of the approval, and the reference number (however described) for the approval;
 - (c) if the approval has not been issued—the steps taken, or proposed to be taken, to obtain the approval;
 - (d) an authorisation from the applicant to the Regulator to enable the Regulator to contact and obtain information from the authority in relation to the approval.

12 Criteria for approval of registration—eligibility requirements

- (1) For the purposes of paragraph 15(4)(n) of the Act, this section specifies eligibility requirements a biodiversity project must meet before an application made by an eligible person under subsection 11(1) of the Act for the approval of the registration of the project is approved.
- (2) The requirements are the following:
 - (a) if the proposed project area (the **project area**) is or includes Crown land (whether or not that land is also Torrens system land)—the proposed project proponent has notified the Crown lands Minister in relation to the State or Territory in which the area is located of the intent to apply to the Regulator to approve the registration of the project;
 - (b) if the project area is or includes Crown land that is not Torrens system land or an exclusive possession native title area:
 - (i) the proposed project proponent, or one of the proposed project proponents, is the State or Territory, or an authority of the State or Territory, that owns the land on or in which the project area is located; or
 - (ii) the State or Territory, or an authority of the State or Territory, that owns the land on or in which the project area is located has consented to the project being carried out on that land as a registered biodiversity project by the proposed project proponent or proponents; or
 - (iii) the proposed project proponent, or one of the proposed project proponents, holds a lease of the Crown land on or in which the project area is located, and the terms of the lease are consistent with the project being carried out on that land as a registered biodiversity project by the proposed project proponent or proponents; or

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- (iv) a person who holds a lease of the Crown land on or in which the project area is located has consented to, and the terms of the lease are consistent with, the project being carried out on that land as a registered biodiversity project by the proposed project proponent or proponents;
- (c) the project is not required to be carried out, either wholly or in part, as a remediation measure for the contravention of a Commonwealth, State or Territory law.

13 Notice of approval of registration—matters to be included in notice

- (1) For the purposes of paragraphs 15(7)(a) and (f) of the Act, this section:
 - (a) provides for how the project area of a biodiversity project is to be set out in the notice of the approval of the registration of the project; and
 - (b) specifies the attributes of the project that are to be set out in the notice.
- (2) The project area must be set out in the notice by being described in accordance with the requirements for describing project areas set out in paragraphs 77(2)(a) to (c).
- (3) The biodiversity outcome for the project is the attribute of the project that is to be set out in the notice.

Division 2—Voluntary variation of registration of biodiversity project

Subdivision A—Change in identity of project proponent

14 Operation of this Subdivision

For the purposes of subsections 19(1) and 22(1) of the Act, this Subdivision makes provision for or in relation to empowering the Regulator to vary the registration of a registered biodiversity project to change the identity of the project proponent.

Note: For further rules made for the purposes of subsection 22(1) of the Act, see Subdivision D of this Division.

15 Application for approval of variation

- (1) The project proponent for a registered biodiversity project may apply to the Regulator for the Regulator to vary the registration of the project to:
 - (a) add an eligible person as a project proponent of the project; or
 - (b) remove a project proponent from the project (so long as this would not result in there not being any project proponents for the project).
- (2) The application must:
 - (a) be in writing; and
 - (b) be in a form approved, in writing, by the Regulator; and
 - (c) include the unique identifier assigned for the project; and
 - (d) include evidence that the criteria for the approval of the variation mentioned in subsection 16(2) have been met.

Note: If the application would, if granted, result in there being multiple project proponents for the project, the application must also be accompanied by a nomination of a nominee in relation to the project—see section 37 of the Act.

16 Approval of variation

Approval

- (1) After considering an application made by the project proponent for a registered biodiversity project under section 15, the Regulator must decide:
 - (a) to vary the registration of the project to add an eligible person as a project proponent of the project; or
 - (b) to vary the registration of the project to remove a project proponent from the project; or
 - (c) to refuse to vary the registration of the project.

Criteria for approval

- (2) The Regulator may decide to vary the registration of the project only if the Regulator is satisfied that:

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- (a) if the application is to add an eligible person as a project proponent of the project:
 - (i) the eligible person has consented, in writing, to the variation; and
 - (ii) the identity of the eligible person is verified in accordance with the identification procedures in Division 1 of Part 21; and
 - (iii) the eligible person is a fit and proper person; and
- (b) if the application is to remove a project proponent from the project:
 - (i) the project proponent proposed to be removed consents to the variation; and
 - (ii) the removal will not result in there not being any project proponents for the project; and
 - (iii) the remaining project proponents will have the capability and resources to carry out the project; and
- (c) if there are multiple project proponents for the project—the application is made by the nominee in relation to the project on behalf of the multiple project proponents; and
- (d) the requirements in subsection (3) have been met in relation to:
 - (i) if a biodiversity certificate is in effect in relation to the project, and the project proponent for the project is not the holder of the certificate—the holder of the certificate; and
 - (ii) if the project area is or includes a native title area and there is a registered native title body corporate for the native title area that is not a project proponent for the project—the registered native title body corporate; and
- (e) if the applicant is required to give security to the Commonwealth under subsection (4)—the applicant has given the required security to the Commonwealth.

Consultation requirements

- (3) The Regulator must consult a person mentioned in paragraph (2)(d) by:
 - (a) notifying the person, in writing, of the proposed variation; and
 - (b) giving the person the opportunity to make submissions in relation to the proposed variation within a period of no less than 28 days.

Regulator may require applicant to give security

- (4) The Regulator may require the applicant to give the Commonwealth security in relation to the fulfilment of any requirements to relinquish biodiversity certificates that may be imposed under Part 13 of the Act in relation to the project (whether or not the circumstances that may result in a relinquishment notice being given exist at the time the variation applied for is made).

Timing

- (5) The Regulator must take all reasonable steps to ensure that a decision is made on the application:
 - (a) if the Regulator is required to consult with a person under subsection (3), or requires the applicant to give further information under section 128 in

relation to the application—within 90 days after the person was notified of the consultation or the applicant gave the Regulator the information (as applicable); or

- (b) otherwise—within 90 days after the application was made.

When variation takes effect

- (6) If the Regulator decides to vary the registration of the biodiversity project, the variation takes effect on the day after the notice of the decision is given to the applicant under section 17.

17 Notification of decision

- (1) The Regulator must give written notice of a decision under subsection 16(1) as soon as practicable after making the decision.
- (2) If the decision is to vary the registration, the notice must be given to:
- (a) the applicant; and
 - (b) in the case that the variation is to add an eligible person as a project proponent of the project—that eligible person; and
 - (c) in the case that the variation is to remove a project proponent from the project and that project proponent is not the applicant—that project proponent; and
 - (d) if there is a relevant land registration official in relation to the project—the relevant land registration official; and
 - (e) if a biodiversity certificate is in effect in relation to the project, and the project proponent for the project is not the holder of the certificate—the holder of the certificate; and
 - (f) if the project area is or includes a native title area and there is a registered native title body corporate for the native title area that is not a project proponent for the project—the registered native title body corporate.
- (3) If the decision is to refuse to vary the registration:
- (a) the notice, and the reasons for the decision, must be given to the applicant; and
 - (b) if a biodiversity certificate relating to the project is held by a person other than the applicant—the notice must be given to the holder of the certificate.

Subdivision B—Change of project areas etc.

18 Operation of this Subdivision

For the purposes of subsections 20(1) and 22(1) of the Act, this Subdivision makes provision for or in relation to empowering the Regulator to vary the registration of a registered biodiversity project in respect of the project area, the methodology determination that covers the project, the project's activity period or the project's permanence period.

Note: For further rules made for the purposes of subsection 22(1) of the Act, see Subdivision D of this Division.

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19 Application for approval of variation

- (1) The project proponent for a registered biodiversity project may apply to the Regulator for the Regulator to vary the registration of the project in respect of any of the following:
 - (a) the project area;
 - (b) the methodology determination that covers the project;
 - (c) the project's activity period (if any);
 - (d) the project's permanence period.
- (2) The application must:
 - (a) be in writing; and
 - (b) be in a form approved, in writing, by the Regulator; and
 - (c) include the unique identifier assigned for the project; and
 - (d) include evidence that the criteria for the approval of the variation mentioned in subsection 20(2) have been met; and
 - (e) if the application is in respect of the project area—identify whether, as a result of the variation, any new consent to the registration or the carrying out of the biodiversity project needs to be obtained from:
 - (i) a person who holds an eligible interest in the project area (or part of the project area) for the project; or
 - (ii) a registered native title body corporate; and
 - (f) for each consent mentioned in paragraph (e) that is required to be obtained before the variation is approved—a statement to the effect that the consent has been obtained and evidence supporting the statement; and
 - (g) if the application is in respect of the project area and that area, as proposed to be varied, would include new areas—the information and documents in relation to the project area, as proposed to be varied, mentioned in subsection 11(5).
- (3) A consent mentioned in paragraph (2)(e) may be set out in a registered indigenous land use agreement.

20 Approval of variation

Approval

- (1) After considering an application made by the project proponent for a registered biodiversity project under section 19, the Regulator must decide:
 - (a) to vary the registration of the project in respect of any of the following:
 - (i) the project area;
 - (ii) the methodology determination that covers the project;
 - (iii) the project's activity period (if any);
 - (iv) the project's permanence period; or
 - (b) to refuse to vary the registration of the project.

Criteria for approval

- (2) The Regulator may decide to vary the registration of the project only if the Regulator is satisfied that:
- (a) subject to subsection (3), the criteria for the approval of the registration under subsection 15(4) of the Act are met to the extent that they are relevant to the project as proposed to be varied; and
 - (b) if the application is in respect of the project area and that area, as proposed to be varied, would include new areas—the application has not been made during the period specified in an order (if any) under subsection 16(1) of the Act that relates to the methodology determination (the ***applicable methodology determination***) that covers the project; and
 - (c) if the application is in respect of the applicable methodology determination:
 - (i) the requirements of subsection 20(2) of the Act are met in respect of the methodology determination that is proposed to cover the project as a result of the variation; and
 - (ii) the application has not been made during the period specified in an order (if any) under subsection 16(1) of the Act that relates to the proposed determination; and
 - (d) if the application is in respect of the project's permanence period—the variation would not reduce that period; and
 - (e) if there are multiple project proponents for the project—the application is made by the nominee in relation to the project on behalf of the multiple project proponents; and
 - (f) if a biodiversity certificate is in effect for the project, and the project proponent is not the holder of the certificate—either:
 - (i) the holder of the certificate has consented, in writing, to the variation; or
 - (ii) the variation would not result in a material change to the certificate; and
 - (g) if a biodiversity certificate is not in effect for the project—an application for the issue of a biodiversity certificate has not been made.
- (3) Paragraph (2)(a) does not apply in relation to the criteria mentioned in paragraph 15(4)(o) of the Act if:
- (a) the application is to vary the registration of the project in respect of the project area; and
 - (b) the project area as proposed to be varied:
 - (i) would be reduced; and
 - (ii) would not include any new areas.

Timing

- (4) The Regulator must take all reasonable steps to ensure that a decision is made on the application:
- (a) if the Regulator requires the applicant to give further information under section 128 in relation to the application—within 90 days after the applicant gave the Regulator the information; or

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- (b) otherwise—within 90 days after the application was made.

When variation takes effect

- (5) If the Regulator decides to vary the registration of the project, the variation takes effect on the day after the notice of the decision is given to the applicant under section 21.

21 Notification of decision

- (1) The Regulator must give written notice of a decision under subsection 20(1) as soon as practicable after making the decision.
- (2) If the decision is to vary the registration, the notice must be given to:
- (a) the applicant; and
 - (b) if there is a relevant land registration official in relation to the project—the relevant land registration official; and
 - (c) if a biodiversity certificate is in effect in relation to the project, and the project proponent for the project is not the holder of the certificate—the holder of the certificate; and
 - (d) if the project area is or includes a native title area and there is a registered native title body corporate for the native title area that is not a project proponent for the project—the registered native title body corporate.
- (3) If the decision is to refuse to vary the registration:
- (a) the notice, and the reasons for the decision, must be given to the applicant; and
 - (b) if a biodiversity certificate relating to project is held by a person other than the applicant—the notice must be given to the holder of the certificate.

Subdivision C—Change in conditions of registration

22 Operation of this Subdivision

For the purposes of subsections 21(1) and 22(1) of the Act, this Subdivision makes provision for or in relation to empowering the Regulator to vary the registration of a registered biodiversity project to remove a condition to which the registration is subject.

Note: For further rules made for the purposes of subsection 22(1) of the Act, see Subdivision D of this Division.

23 Application for approval of variation

- (1) The project proponent for a registered biodiversity project may apply to the Regulator for the Regulator to vary the registration of the project to remove any of the following conditions to which the registration is subject:
- (a) a condition mentioned in subsection 17(2) of the Act (conditions about obtaining regulatory approvals);
 - (b) a condition mentioned in subsection 18(2) of the Act (conditions about obtaining consents from eligible interest holders);

- (c) a condition mentioned in subsection 18A(2) of the Act (condition about obtaining consent from registered native title body corporate).
- (2) The application must:
 - (a) be in writing; and
 - (b) be in a form approved, in writing, by the Regulator; and
 - (c) include the unique identifier assigned for the project; and
 - (d) for each condition mentioned in the application—be accompanied by evidence that the condition has been met.

24 Approval of variation

Approval

- (1) After considering an application made by the project proponent for a registered biodiversity project under section 23, the Regulator must decide:
 - (a) to vary the registration of the project to remove the condition that is the subject of the application; or
 - (b) to refuse to vary the registration of the project.

Criteria for approval

- (2) The Regulator may decide to vary the registration of the project only if the Regulator is satisfied that:
 - (a) the condition has been met; and
 - (b) if there are multiple project proponents for the project—the application is made by the nominee in relation to the project on behalf of the multiple project proponents.

Timing

- (3) The Regulator must take all reasonable steps to ensure that a decision is made on the application:
 - (a) if the Regulator requires the applicant to give further information under section 128 in relation to the application—within 90 days after the applicant gave the Regulator the information; or
 - (b) otherwise—within 90 days after the application was made.

When variation takes effect

- (4) If the Regulator decides to vary the registration of the project, the variation takes effect on the day after the notice of the decision is given to the applicant under section 25.

25 Notification of decision

- (1) The Regulator must give written notice of a decision under subsection 24(1) as soon as practicable after making the decision.
- (2) If the decision is to vary the registration, the notice must be given to:
 - (a) the applicant; and

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- (b) if there is a relevant land registration official in relation to the project—the relevant land registration official; and
 - (c) if the project area is or includes a native title area and there is a registered native title body corporate for the native title area that is not a project proponent for the project—the registered native title body corporate.
- (3) If the decision is to refuse to vary that registration, the notice, and the reasons for the decision, must be given to the applicant.

Subdivision D—Miscellaneous

26 Operation of this Subdivision

For the purposes of section 22 of the Act, this Subdivision makes provision for or in relation to the rules set out in Subdivision A, B and C of this Division.

27 Regulator may vary biodiversity certificate

- (1) For the purposes of paragraph 22(1)(k) of the Act, if the registration of a biodiversity project is varied under this Division, the Regulator may vary a biodiversity certificate issued in respect of the project (including such a certificate that is held by a person other than the project proponent for the project) in accordance with this section.
- (2) The Regulator may vary the certificate to:
 - (a) if the registration is varied to add an eligible person as a project proponent of the project—add the person’s name as a project proponent; and
 - (b) if the registration is varied to remove a project proponent from the project—remove the project proponent from the certificate; and
 - (c) if the registration is varied in respect of the methodology determination that covers the project—state the methodology determination that is to cover the project as a result of the variation; and
 - (d) if the registration is varied in respect of the project’s permanence period—state the permanence period that is to apply to the project as a result of the variation.

Division 3—Cancellation of registration of biodiversity project

Subdivision A—Voluntary cancellation of registration of biodiversity project

28 Operation of this Subdivision

For the purposes of subsections 23(1), 24(1) and 25(1) of the Act, this Subdivision makes provision for or in relation to the voluntary cancellation of the registration of a registered biodiversity project.

29 Application for approval of cancellation

- (1) The project proponent for a registered biodiversity project may apply to the Regulator for the Regulator to:
 - (a) cancel the registration of the project, in the circumstance that a biodiversity certificate has been issued in respect of the project; or
 - (b) cancel the registration of the project, in the circumstance that a biodiversity certificate has not been issued in respect of the project.
- (2) The application must:
 - (a) be in writing; and
 - (b) be in a form approved, in writing, by the Regulator; and
 - (c) be accompanied by the information and documents mentioned in subsection (3).
- (3) For paragraph (2)(c), the information and documents are the following:
 - (a) the unique identifier assigned for the project;
 - (b) if there are multiple project proponents for the project—evidence that the application is made by the nominee in relation to the project on behalf of the multiple project proponents;
 - (c) for an application made under paragraph (1)(a):
 - (i) evidence that a biodiversity certificate (the **original certificate**) has been issued in respect of the project; and
 - (ii) evidence that the original certificate has been relinquished in accordance with section 152 of the Act in relation to the project, as mentioned in paragraph 152(2)(c) of the Act; and
 - (iii) the day on which the original certificate was relinquished; and
 - (iv) the unique identifier assigned for the original certificate;
 - (d) for an application made under paragraph (1)(b)—a statement that no biodiversity certificate has been issued in respect of the project;
 - (e) if the applicant considers that an eligible person may want to be a project proponent for the project—a statement to that effect, and the name and contact details for the person.

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30 Approval of cancellation

Approval

- (1) After considering an application made by the project proponent for a registered biodiversity project under section 29, the Regulator must decide:
 - (a) to cancel the registration of the project, in the circumstance that a biodiversity certificate has been issued in respect of the project; or
 - (b) to cancel the registration of the project, in the circumstance that a biodiversity certificate has not been issued in respect of the project; or
 - (c) to refuse to cancel the registration of the project.

Criteria for approval

- (2) The Regulator may decide to cancel the registration of the project only if the Regulator is satisfied that:
 - (a) if the application is to cancel the registration of the project, in the circumstance that a biodiversity certificate has been issued in respect of the project:
 - (i) a biodiversity certificate (the ***original certificate***) has been issued in respect of the project; and
 - (ii) the original certificate has been relinquished in accordance with section 152 of the Act in relation to the project, as mentioned in paragraph 152(2)(c) of the Act; and
 - (b) if the application is to cancel the registration of the project, in the circumstance that a biodiversity certificate has not been issued in respect of the project—no biodiversity certificate has been issued in respect of the project; and
 - (c) if there are multiple project proponents for the project—the application is made by the nominee in relation to the project on behalf of the multiple project proponents.

Timing

- (3) The Regulator must take all reasonable steps to ensure that a decision is made on the application:
 - (a) if the Regulator requires the applicant to give further information under section 128 in relation to the application—within 90 days after the applicant gave the Regulator the information; or
 - (b) otherwise—within 90 days after the application was made.
- (4) Despite subsection (3), the Regulator is not required to make a decision on the application if:
 - (a) the project proponent has made an application to vary the registration of the project to add or remove a project proponent under subsection 15(1) and that application has not been determined; or
 - (b) the Regulator is aware that the project proponent intends to make such an application.

When cancellation takes effect

- (5) If the Regulator decides to cancel the registration of the project, the cancellation takes effect on the day after the notice of the decision is given to the applicant under section 31.

31 Notification of decision

- (1) The Regulator must give written notice of a decision under subsection 30(1) as soon as practicable after making the decision.
- (2) If the decision is to cancel the registration, the notice must be given to:
- (a) the applicant; and
 - (b) if there is a relevant land registration official in relation to the project—the relevant land registration official; and
 - (c) if the application was made under paragraph 29(1)(a), and the biodiversity certificate mentioned in that paragraph is held by a person other than the applicant—the holder of the certificate; and
 - (d) if the project area is or includes a native title area and there is a registered native title body corporate for the native title area that is not a project proponent for the project—the registered native title body corporate.
- (3) If the decision is to refuse to cancel the registration, the notice, and the reasons for the decision, must be given to the applicant.

Subdivision B—Unilateral cancellation of registration of biodiversity project

32 Operation of this Subdivision

For the purposes of subsections 26(1), 27(1), 28(1), 29(1), 30(1) and 31(1) of the Act, this Subdivision makes provision for or in relation to the unilateral cancellation of the registration of a registered biodiversity project.

33 Unilateral cancellation—condition of registration has not been met

Subject to this Subdivision, the Regulator may cancel the registration of a registered biodiversity project if:

- (a) the registration is subject to a condition mentioned in subsection 17(2), 18(2) or 18A(2) of the Act; and
- (b) the Regulator is satisfied that the condition has not been met; and
- (c) at least 5 years have passed since the project was first registered.

34 Unilateral cancellation—project not commenced, or unlikely to result in issuing of biodiversity certificate

Subject to this Subdivision, the Regulator may cancel the registration of a registered biodiversity project if:

- (a) a biodiversity certificate has not yet been issued in respect of the project; and

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- (b) any of the following applies:
 - (i) 5 years have passed since the project was first registered, and the Regulator is not satisfied that the project has begun to be carried out;
 - (ii) the Regulator is satisfied that the project is not being carried out;
 - (iii) the Regulator is satisfied that the project is unlikely to be carried out in a way that would result in a biodiversity certificate being issued in respect of the project.

35 Unilateral cancellation—eligibility requirements not met etc.

- (1) Subject to this Subdivision, the Regulator may cancel the registration of a registered biodiversity project if the Regulator is satisfied that a requirement specified in subsection (2) is not met in respect of the project.
- (2) For the purposes of paragraph 28(2)(b) of the Act, the requirements are the criteria for the approval of the registration under paragraphs 15(4)(a), (b), (c), (e) and (n) of the Act.

36 Unilateral cancellation—project proponent ceases to be a fit and proper person

Subject to this Subdivision, the Regulator may cancel the registration of a registered biodiversity project if:

- (a) the Regulator is satisfied that:
 - (i) if there is one project proponent for the project—the project proponent is not a fit and proper person; or
 - (ii) if there are multiple project proponents for the project—any of those project proponents is not a fit and proper person; and
- (b) 90 days pass after the Regulator becomes so satisfied, and, at the end of that 90-day period, the Regulator is not satisfied that each project proponent for the project is a fit and proper person.

Note: For the matters the Regulator must consider in being satisfied that a person is a fit and proper person, see sections 97, 98, 99 and 99A of the Act.

37 Unilateral cancellation—project proponent ceases to exist etc.

Subject to this Subdivision, the Regulator may cancel the registration of a registered biodiversity project if:

- (a) the Regulator is satisfied that any of the following circumstances exist:
 - (i) the project proponent has died or has ceased to exist, and there are no other project proponents for the project;
 - (ii) the project is not being carried out (except to the extent that this is in accordance with the methodology determination that covers the project); and
- (b) 90 days pass after the circumstances began to exist, and the Regulator is not satisfied, at the end of that 90-day period, that the circumstances have ceased to exist.

38 Unilateral cancellation—false or misleading information

Subject to this Subdivision, the Regulator may cancel the registration of a registered biodiversity project if:

- (a) information was given by a person to the Regulator in connection with the project; and
- (b) the information was:
 - (i) contained in an application under the Act; or
 - (ii) given in connection with an application under the Act; or
 - (iii) contained in a biodiversity project report; or
 - (iv) contained in a notification under Division 3 of Part 9 of the Act; and
- (c) the Regulator is satisfied that the information was false or misleading in a material particular.

39 Requirement to consider submission from project proponent

The Regulator must not decide to cancel the registration of a registered biodiversity project under this Subdivision unless the Regulator has:

- (a) given written notice of the proposed cancellation to the project proponent (if any) for the project; and
- (b) invited the project proponent to make submissions to the Regulator on the proposed cancellation before the end of the period of 28 days of receiving the notice; and
- (c) considered any relevant submissions that were received within that period.

Note: If there are multiple project proponents, the reference in paragraph (a) to the project proponent for the project is to be read as a reference to each project proponent: see section 36 of the Act.

40 Requirement to consider pending application to vary registration to change identity of project proponent

The Regulator must not decide to cancel the registration of a registered biodiversity project under section 36 or 37 if:

- (a) the project proponent for the project has made an application under subsection 15(1) to change the identity of the project proponent; and
- (b) either:
 - (i) the Regulator has not made a decision on that application; or
 - (ii) the Regulator has made a decision on that application and an appeal in relation to that decision has not been finally determined.

41 Requirement to notify proposed project proponent

- (1) This section applies if the Regulator:
 - (a) proposes to cancel the registration of a registered biodiversity project under this Subdivision; and
 - (b) is aware that an eligible person may wish to become a project proponent of the project.

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- (2) The Regulator must not decide to cancel the registration of the project unless the Regulator has taken reasonable steps to notify the eligible person, in writing, of the proposed cancellation.

42 When cancellation takes effect

If the Regulator decides to cancel the registration of a registered biodiversity project under this Subdivision, the cancellation takes effect on the day after the notice of the decision is given, under section 43, to:

- (a) the project proponent for the project; or
- (b) if there is no such project proponent—a person mentioned in paragraph 43(2)(b) or (c).

43 Notification of decision

- (1) The Regulator must give written notice of a decision under this Subdivision to cancel the registration of a registered biodiversity project as soon as practicable after making the decision.
- (2) The notice must be given to:
- (a) the project proponent (if any) for the project; and
 - (b) if there is a relevant land registration official in relation to the project—the relevant land registration official; and
 - (c) if a biodiversity certificate is in effect in relation to the project, and is held by a person other than the project proponent—the holder of the certificate; and
 - (d) if the project area is or includes a native title area and there is a registered native title body corporate for the native title area that is not a project proponent for the project—the registered native title body corporate.

Division 4—Excluded biodiversity projects

44 Operation of this Division

For the purposes of subsection 33(1) of the Act, this Division specifies the kinds of biodiversity projects that are excluded biodiversity projects.

45 Excluded biodiversity projects—planting of known weed species

- (1) A project that involves the planting of a species in an area where the species is a known weed species is an excluded biodiversity project.
- (2) A species is a **known weed species** if either or both of the following apply:
 - (a) it is listed in document titled the *Weeds of National Significance*, published by the Centre for Invasive Species Solutions, as existing from time to time;
 - (b) it is declared or described as a known weed species or pest (however described) under any of the following Acts:
 - (i) the *Biosecurity Act 2015* (NSW);
 - (ii) the *Catchment and Land Protection Act 1994* (Vic.);
 - (iii) the *Biosecurity Act 2014* (Qld);
 - (iv) the *Agriculture and Related Resources Protection Act 1976* (WA);
 - (v) the *Biosecurity and Agriculture Management Act 2007* (WA);
 - (vi) the *Landscape South Australia Act 2019* (SA);
 - (vii) the *Biosecurity Act 2019* (Tas.);
 - (viii) the *Pest Plants and Animals Act 2005* (ACT);
 - (ix) the *Biosecurity Act 2023* (ACT);
 - (x) the *Weeds Management Act 2001* (NT).

Note: For paragraph (2)(a), the *Weeds of National Significance* could, in 2024, be viewed on the Weeds Australia website (<https://www.weeds.org.au>).

Part 3—Multiple project proponents

46 Operation of this Part

For the purposes of subsection 42(1) of the Act, this Part makes provision for or in relation to empowering the Regulator to cancel the registration of a registered biodiversity project if multiple project proponents have failed to nominate a nominee.

47 Unilateral cancellation—failure of multiple project proponents to nominate a nominee

Cancellation of registration of registered biodiversity project

- (1) The Regulator may cancel the registration of a registered biodiversity project if:
- (a) there are 2 or more project proponents (the **multiple project proponents**) for the registered biodiversity project; and
 - (b) the multiple project proponents have nominated an eligible person under subsection 37(2) or 38(2) of the Act; and
 - (c) the nomination ceases to be in force; and
 - (d) 90 days pass, and no new nomination under subsection 37(2) or 38(2) of the Act is made by the multiple project proponents; and
 - (e) the Regulator has considered any relevant submissions received in response to notices given by the Regulator under subsection (2) of this section.

Consultation

- (2) Before deciding to cancel the registration, the Regulator:
- (a) must give notice, in writing, of the proposed cancellation to each multiple project proponent; and
 - (b) may give notice, in writing, of the proposed cancellation to any eligible person the Regulator considers may be interested in being added as a project proponent of the project.
- (3) A notice under subsection (2) must include an invitation for submissions to be made, within 28 days after the date of the notice, to the Regulator about the proposed cancellation.

Notice of cancellation

- (4) If the registration of a registered biodiversity project is cancelled in accordance with this section, the Regulator must give notice of the cancellation to:
- (a) each multiple project proponent; and
 - (b) if there is a relevant land registration official in relation to the project—the relevant land registration official; and
 - (c) if a biodiversity certificate is in effect in relation to the project, and is held by a person other than the project proponent—the holder of the certificate; and

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- (d) if the project area for the project is or includes a native title area and there is a registered native title body corporate for the native title area that is not a project proponent for the project—the registered native title body corporate.

Part 4—Methodology determinations

Division 1—Variation of methodology determinations

48 Operation of this Division

For the purposes of Subdivision B of Division 2 of Part 4 of the Act, this Division makes provision for or in relation to the variation of methodology determinations.

49 When variation applies, or does not apply, to existing registered biodiversity project—general rule

When variation applies to a registered biodiversity project

- (1) For the purposes of subsection 49(2) of the Act, a variation of a methodology determination that covers a registered biodiversity project applies to the project if:
 - (a) the project's registration is in effect at the time the variation takes effect;
and
 - (b) none of the circumstances mentioned in paragraph (2)(b) apply.

Note: The Regulator may determine that the variation does not apply to the project despite this subsection: see section 50.

When variation does not apply to a registered biodiversity project

- (2) For the purposes of subsection 49(3) of the Act, a variation of a methodology determination that covers a registered biodiversity project does not apply to the project if:
 - (a) the project's registration is in effect at the time the variation takes effect;
and
 - (b) any of the following circumstances apply:
 - (i) the 2-year period beginning at the time the variation takes effect has not ended;
 - (ii) a biodiversity certificate was issued for the project before the time the variation takes effect;
 - (iii) an application for a biodiversity certificate was made, but not determined, before the time the variation takes effect.

50 Regulator may determine that variation does not apply to existing registered biodiversity project

- (1) This section is made for the purposes of subsections 49(4) and (5) of the Act.

Application for determination

- (2) The project proponent for a registered biodiversity project may apply to the Regulator for the Regulator to determine that a variation of the methodology determination that covers the project does not apply to the project.
- (3) The application must:
 - (a) be in writing; and
 - (b) be in a form approved, in writing, by the Regulator; and
 - (c) include evidence that the criteria mentioned in subsection (5) have been met.

Determination

- (4) After considering the application, the Regulator must determine that:
 - (a) the variation does not apply to the project; or
 - (b) the variation does apply to the project.

Criteria for determination

- (5) The Regulator may determine that the variation does not apply to the project only if the Regulator is satisfied that:
 - (a) the methodology determination, in respect of which the variation has been made, covers the project; and
 - (b) the project's registration is in effect at the time the variation takes effect; and
 - (c) if there are multiple project proponents for the project—the application is made by the nominee in relation to the project on behalf of the multiple project proponents; and
 - (d) the effect of section 49 is that the variation applies, or will apply, to the project; and
 - (e) if the variation applies to the project, it is likely that:
 - (i) the biodiversity outcome for the project would not be achieved; or
 - (ii) practical difficulties would arise due to the advanced nature of the project; or
 - (iii) the costs of applying the variation would be unreasonable in the circumstances.

Timing

- (6) The Regulator must take all reasonable steps to ensure that a decision is made on the application:
 - (a) if the Regulator requires the applicant to give further information under section 128 in relation to the application—within 90 days after the applicant gave the Regulator the information; or
 - (b) otherwise—within 90 days after the application was made.

Notification of decision

- (7) As soon as practicable after making the decision, the Regulator must:

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- (a) give the applicant a written notice of the decision; and
- (b) if the decision is to refuse the application—give the applicant the reasons for the decision.

51 Effect of variation on application for registration of biodiversity project

For the purposes of subsection 49(8) of the Act, if an application made by an eligible person under the Act is affected by a variation of a methodology determination, as mentioned in subsection 49(7) of the Act, the Regulator must:

- (a) notify the person, in writing, that the application is so affected; and
- (b) provide a copy of, or an electronic link to, the variation; and
- (c) give the eligible person an opportunity, within the period of 28 days after the notice is given, to withdraw or vary the application before the Regulator considers the application.

Note: If the application is withdrawn, the Act does not prevent the applicant from making a fresh application: see subsection 14(2) of the Act.

Division 2—Cessation of effect of methodology determinations

52 Operation of this Division

For the purposes of Subdivision C of Division 2 of Part 4 of the Act, this Division makes provision in relation to the cessation of the effect of methodology determinations.

53 When methodology determination continues to apply to registered biodiversity project—general rule

For the purposes of subsection 52(1) of the Act, if:

- (a) a methodology determination that covers a registered biodiversity project ceases to have effect; and
- (b) any of the following applies:
 - (i) before the determination ceases to have effect, a biodiversity certificate was issued for the project; or
 - (ii) before the determination ceases to have effect, an application for a biodiversity certificate was made, but not determined; or
 - (iii) there is no other methodology determination in effect that covers that kind of project;

the determination continues to cover the project as if the determination had not ceased.

54 Regulator may determine that methodology determination continues to apply to registered biodiversity project

- (1) This section is made for the purposes of subsections 52(2) and (3) of the Act.

Application for determination

- (2) The project proponent for a registered biodiversity project may apply to the Regulator for the Regulator to determine that, despite the cessation of effect of the methodology determination (the ***applicable methodology determination***) that covers the project, the determination continues to cover the project as if the determination had not ceased.
- (3) The application must:
 - (a) be in writing; and
 - (b) be in a form approved, in writing, by the Regulator; and
 - (c) include evidence that the criteria mentioned in subsection (5) have been met.

Regulator to make determination

- (4) After considering the application, the Regulator must determine that the applicable methodology determination:
 - (a) continues to cover the project; or
 - (b) does not continue to cover the project.

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Criteria for making determination

- (5) The Regulator may determine that the applicable methodology determination continues to cover the project only if the Regulator is satisfied that:
- (a) the determination has ceased to have effect; and
 - (b) if there are multiple project proponents for the project—the application is made by the nominee in relation to the project on behalf of the multiple project proponents; and
 - (c) the effect of section 53 is that the determination does not continue to cover the project; and
 - (d) if the project were covered by a different methodology determination, it is likely that:
 - (i) the biodiversity outcome for the project would not be achieved; or
 - (ii) practical difficulties would arise due to the advanced nature of the project; or
 - (iii) the costs of applying the different methodology determination would be unreasonable in the circumstances.

Timing

- (6) The Regulator must take all reasonable steps to ensure that a decision is made on the application:
- (a) if the Regulator requires the applicant to give further information under section 128 in relation to the application—within 90 days after the applicant gave the Regulator the information; or
 - (b) otherwise—within 90 days after the application was made.

Notification of decision

- (7) As soon as practicable after making the decision, the Regulator must:
- (a) give the application a written notice of the decision; and
 - (b) if the decision is to refuse the application—give the applicant the reasons for the decision.

55 Effect of cessation on application for registration of biodiversity project

For the purposes of subsection 53(3) of the Act, if the methodology determination specified in an application made by an eligible person under section 11 of the Act ceases to have effect, the Regulator must:

- (a) notify the person, in writing, that the Regulator proposes to refuse the application under subsection 53(2) of the Act; and
- (b) give the eligible person an opportunity, within the period of 28 days after the notice is given, to withdraw or vary the application before the Regulator refuses the application.

Note: If the application is withdrawn, the Act does not prevent the applicant from making a fresh application: see subsection 14(2) of the Act.

Part 5—Biodiversity certificates

56 Operation of this Part

For the purposes of Part 5 of the Act, this Part makes provision for or in relation to the issue of biodiversity certificates for registered biodiversity projects.

57 Application for biodiversity certificate—information and documents

- (1) For the purposes of paragraphs 68(1)(c) and (g) of the Act, this section specifies information that must be included in, and documents that must accompany, an application made under subsection 67(1) of the Act by the project proponent for a registered biodiversity project for the issue of a biodiversity certificate in respect of the project.
- (2) The following information and documents are specified:
 - (a) a statement that the applicant is the project proponent for the project;
 - (b) if there are multiple project proponents for the project—a statement that the applicant is the nominee in relation to the project and is making the application on behalf of the multiple project proponents;
 - (c) for each project proponent for the project—evidence about any circumstance or event that:
 - (i) has occurred since the project was registered that is relevant to a matter in section 97, 98, 99 or 99A of the Act that the Regulator must consider in determining whether the proponent is a fit and proper person; and
 - (ii) has not previously been notified to the Regulator;
 - (d) the account number and holder of the Register account in which the certificate is proposed to be held;
 - (e) the name of the project;
 - (f) the unique identifier assigned for the project;
 - (g) a statement that the project is sufficiently progressed to have resulted in, or be likely to result in, the biodiversity outcome for the project, and evidence supporting that statement;
 - (h) a statement that the preconditions for making the application set out in subsection 67(2) of the Act have been met, and evidence supporting that statement;
 - (i) a statement that the eligibility requirements specified by section 59 for the purposes of paragraph 70(2)(g) of the Act are met, and evidence supporting that statement;
 - (j) the methodology determination (the *applicable methodology determination*) that covers the project;
 - (k) if the applicable methodology determination specifies conditions for the purposes of paragraph 45(1)(e) of the Act—a statement that those conditions are met, and evidence supporting that statement;

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- (l) a statement that the category A biodiversity project report accompanying the application meets the requirements in section 103 of the Act;
 - (m) a copy of each category B biodiversity project report (if any) about the project;
 - (n) if the project proponent is required to obtain an approval by paragraph 59(2)(b), or by a condition imposed under section 17 of the Act:
 - (i) a statement that the approval has been obtained; and
 - (ii) the regulatory authority that has issued the approval; and
 - (iii) a copy of the approval; and
 - (iv) the reference number (however described) for the approval;
 - (o) if the project proponent is required to obtain a consent from an eligible interest-holder by paragraph 59(2)(c), or by a condition imposed under section 18 of the Act:
 - (i) a statement that the consent has been obtained; and
 - (ii) the eligible interest-holder that has granted the consent; and
 - (iii) a copy of the written consent;
 - (p) if the project proponent is required to obtain a consent from a registered native title body corporate by paragraph 59(2)(d), or by a condition imposed under section 18A of the Act:
 - (i) a statement that the consent has been obtained; and
 - (ii) the registered native title body corporate that has granted the consent; and
 - (iii) a copy of the written consent.
- (3) If a consent mentioned in subparagraph (2)(o)(iii) or (p)(iii) is set out in a registered indigenous land use agreement, a copy of the relevant parts of the agreement that sets out the consent may be provided instead of the copy of the written consent.

58 Application for biodiversity certificate—audit reports

- (1) For the purposes of paragraph 68(1)(e) of the Act, each application under section 67 of the Act for the issue of a biodiversity certificate in respect of a registered biodiversity project is subject to audit.
- (2) For the purposes of subparagraph 68(1)(e)(i) of the Act, the kind of audit report that is to accompany the application is an audit report that:
 - (a) is an assurance engagement report; and
 - (b) includes information as to whether, in the view of the auditor, the requirements under the Act, this instrument, and the methodology determination that covers the project, have been met in respect of the project.

59 Issue of biodiversity certificate—eligibility requirements

- (1) For the purposes of paragraph 70(2)(g) of the Act, this section specifies eligibility requirements that must be met for the issue of a biodiversity certificate in respect of a registered biodiversity project.

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- (2) The eligibility requirements are the following:
- (a) the audit report accompanying the application must set out, for each of the matters audited, either:
 - (i) a reasonable assurance conclusion (within the meaning of the *National Greenhouse and Energy Reporting (Audit) Determination 2009*); or
 - (ii) a qualified reasonable assurance conclusion (within the meaning of that instrument);
 - (b) if, as a result of a variation of the registration of the project under Subdivision A or B of Division 2 of Part 2, a regulatory approval is required for the carrying out of the project—the approval must have been obtained;
 - (c) if, as a result of a variation of the registration of the project under Subdivision B of Division 2 of Part 2, there is a person who holds an eligible interest in the project area, or any part of the part of the project area—the written consent of the person to the registration of the project must have been obtained;
 - (d) if, as a result of a variation of the registration of the project under Subdivision B of Division 2 of Part 2:
 - (i) the project area for the project is or includes a native title area; and
 - (ii) there is a registered native title body corporate for the native title area; the written consent of the registered native title body corporate must have been obtained to the carrying out of the project on or in the native title area as a registered biodiversity project by the project proponent;
 - (e) each category B biodiversity project report required to be given to the Regulator about the project must have been given to the Regulator;
 - (f) for each category B biodiversity project report given to the Regulator about the project, the Regulator is satisfied that the project proponent has complied with the requirements in the Act, this instrument and the methodology determination that covers the project that relate to the report.

60 Issue of biodiversity certificate—matters to be set out in certificate

- (1) For the purposes of subsection 70(3) of the Act, this section specifies matters that must be set out in a biodiversity certificate issued in respect of a registered biodiversity project.
- (2) The matters are the following:
 - (a) the unique identifier assigned for the certificate;
 - (b) the date the certificate is issued;
 - (c) the unique identifier assigned for the project;
 - (d) the project proponent for the project;
 - (e) the methodology determination that covers the project;
 - (f) the name of the project;
 - (g) the biodiversity outcome for the project;
 - (h) the permanence period of the project.

Part 9—Reporting and notification requirements

Division 1—Reporting requirements

Subdivision A—Category A biodiversity project reports

61 Operation of this Subdivision

For the purposes of Subdivision A of Division 2 of Part 9 of the Act, this Subdivision sets out requirements for giving category A biodiversity project reports for registered biodiversity projects to the Regulator.

62 Category A biodiversity project reports—manner and form of giving reports to Regulator

For the purposes of paragraph 103(1)(a) of the Act, the manner and form in which a category A biodiversity project report is to be given is as follows:

- (a) the report must be given by electronic notice transmitted to the Regulator;
- (b) any information or documents required to be included in or with the form may be given to the Regulator:
 - (i) in the form of data or other digital information, including a map; and
 - (ii) if the information or documents can be accessed by the Regulator on an external platform—by way of an electronic link to the information or documents on that platform.

63 Category A biodiversity project reports—information and documents

- (1) For the purposes of paragraphs 103(1)(b) and (f) of the Act, this section specifies the information that is to be set out in, and documents that are to accompany, a category A biodiversity project report about a registered biodiversity project for a reporting period.
- (2) The information and documents are the following:
 - (a) the unique identifier assigned for the project;
 - (b) the name of the project proponent for the project or, if there are multiple project proponents, the nominee of the project proponents;
 - (c) the reporting period;
 - (d) the activity period (if any) and the permanence period of the project;
 - (e) the activities that have been undertaken during the reporting period in the project area for the project;
 - (f) if there is a project plan for the project—the details of the matters mentioned in subsection (3);
 - (g) if there is no project plan for the project—the details of the matters mentioned in subsection (4);
 - (h) if an audit report for the project has been given to the Regulator during the reporting period:
 - (i) the date of the audit report; and

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- (ii) the type of audit report; and
 - (iii) the outcome of the audit report;
 - (i) if a previous audit relating to the project, undertaken during the reporting period, identified a matter to be rectified—an explanation of how that matter has been, is being or is to be rectified;
 - (j) if, during the reporting period, there has been a change in relation to the activities being, or that are to be, carried out for the purposes of the project (whether the change is in relation to the activities being carried out or how the activities are being carried out), and the change is not of a minor nature—a description of the change and an explanation of how, following the change, the project:
 - (i) meets the criteria for the approval of the registration of the project under paragraphs 15(4)(a), (b), (c), (e) and (n) of the Act; and
 - (ii) is being carried out in accordance with the methodology determination (the ***applicable methodology determination***) that covers the project and the project plan (if any) for the project (including by varying the project plan, if necessary);
 - (k) if, during the reporting period, the registration of the project has been varied under subsection 20(1)—an explanation of how, following the variation, the project:
 - (i) meets the criteria for the approval of the registration of the project under paragraphs 15(4)(a), (b), (c), (e) and (n) of the Act; and
 - (ii) is being carried out in accordance with the applicable methodology determination and the project plan (if any) for the project (including by varying the project plan, if necessary);
 - (l) a statutory declaration by the project proponent to the effect that the information set out in, and any documents accompanying, the report:
 - (i) meet the requirements in the Act, this instrument and the applicable methodology determination that apply to the information and documents; and
 - (ii) are accurate.
- (3) For paragraph (2)(f), the matters are the following:
- (a) the extent to which, during the reporting period, the project:
 - (i) has met the criteria for the approval of the registration of the project under paragraphs 15(4)(a), (b), (c), (e) and (n) of the Act; and
 - (ii) has been carried out in accordance with the project plan; and
 - (b) if, during the reporting period, the project has not been carried out in accordance with the project plan, or is unlikely to be so carried out after the reporting period:
 - (i) what has not been done in accordance with the project plan; and
 - (ii) the reasons for not carrying out the project in accordance with the project plan; and
 - (iii) how the project proponent intends to ensure that the project is carried out in accordance with the project plan (including by varying the project plan, if necessary);
 - (c) if, during the reporting period, the project plan has been varied—the details of, and the reasons for, the variation;
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- (d) if the project proponent considers that the project plan needs to be varied—the details of, and the reasons for, the proposed variation.
- (4) For paragraph (2)(g), the matters are the following:
 - (a) the extent to which, during the reporting period, the project:
 - (i) has met the criteria for the approval of the registration of the project under paragraphs 15(4)(a), (b), (c), (e) and (n) of the Act; and
 - (ii) has been carried out in accordance with the information provided in the application to register the project;
 - (b) if, during the reporting period, the project has not been carried out in accordance with the information provided in the application to register the project, or is unlikely to be so carried out after the reporting period:
 - (i) what has not been done in accordance with that information; and
 - (ii) the reasons for not carrying out the project in accordance with that information.

64 Category A biodiversity project reports that are subject to audit

For the purposes of paragraph 103(1)(d) of the Act, a category A biodiversity project report that is required, under section 101 of the Act, to accompany an application for the issue of a biodiversity certificate in respect of a registered biodiversity project, is subject to audit under the Act.

65 Category A biodiversity project reports—audit reports

- (1) For the purposes of subparagraph 103(1)(d)(i) and (e)(i) of the Act, an audit report that meets the requirements in subsection (2) for the audit of a category A biodiversity project report (the **audited report**) about a registered biodiversity project is prescribed.
- (2) The audit report must:
 - (a) be an assurance engagement report; and
 - (b) cover the reporting period for the audited report; and
 - (c) address whether, at the time of the audit, the project:
 - (i) meets the criteria for the approval of the registration of the project under paragraphs 15(4)(a), (b), (c), (e) and (n) of the Act; and
 - (ii) is being carried out in accordance with the methodology determination (the **applicable methodology determination**) that covers the project and the project plan (if any) for the project; and
 - (d) address whether the audited report has met all relevant requirements under the Act, this instrument and the applicable methodology determination; and
 - (e) if another audit has, during the reporting period, been carried out in respect of the project—address whether, and how, any issues raised in that audit have been addressed; and
 - (f) if any information required to be in the audited report in respect of a period was instead provided in a category B biodiversity project report for the period—address whether the category B biodiversity project report:
 - (i) was given to the Regulator; and

- (ii) met the requirements of section 104 of the Act in respect of the information and the period; and
- (g) address whether the project is sufficiently progressed to have resulted in, or be likely to result in, the biodiversity outcome for the project; and
- (h) address any other matter that the Regulator and the project proponent have agreed should be included in the report; and
- (i) include the outcome of the audit.

Subdivision B—Category B biodiversity project reports

66 Operation of this Subdivision

For the purposes of Subdivision B of Division 2 of Part 9 of the Act, this Subdivision sets out requirements for giving category B biodiversity project reports for registered biodiversity projects to the Regulator.

67 Category B biodiversity project reports—reporting periods

- (1) For the purposes of subsection 104(2) of the Act, this section sets out the reporting periods for category B biodiversity project reports.

Reporting period—first report

- (2) The reporting period for the first category B biodiversity project report for a registered biodiversity project is a period that:
 - (a) begins when the project was registered; and
 - (b) is not shorter than 6 months; and
 - (c) is no longer than 5 years.

Reporting period—subsequent reports

- (3) The reporting period for a subsequent category B biodiversity project report for a registered biodiversity project is a period that:
 - (a) begins immediately after the end of the reporting period for the previous category B biodiversity project report for the project; and
 - (b) is not shorter than 6 months; and
 - (c) is no longer than 5 years.

68 Category B biodiversity project reports—manner and form of giving reports to Regulator

For the purposes of paragraph 104(3)(a) of the Act, the manner and form in which a category B biodiversity project report is to be given is as follows:

- (a) the report must be given by electronic notice transmitted to the Regulator;
- (b) any information or documents required to be included in or with the form may be given to the Regulator:
 - (i) in the form of data or other digital information, including a map; and

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- (ii) if the information or documents can be accessed by the Regulator on an external platform—by way of an electronic link to the information or documents on that platform.

69 Category B biodiversity project reports—information and documents

- (1) For the purposes of paragraphs 104(3)(b) and (f) of the Act, this section specifies the information that is to be set out in, and documents that are to accompany, a category B biodiversity project report about a registered biodiversity project for a reporting period.
- (2) The information and documents are the information and documents specified in paragraphs 63(2)(a) to (g) and (l).

70 Category B biodiversity project reports—audit reports

- (1) For the purposes of subparagraph 104(3)(e)(i) of the Act, an audit report that meets the requirements in subsection (2) for the audit of a category B biodiversity project report (the ***audited report***) about a registered biodiversity project is prescribed.
- (2) The audit report must:
 - (a) be an assurance engagement report; and
 - (b) cover the reporting period for the audited report; and
 - (c) address whether, at the time of the audit, the project:
 - (i) meets the criteria for the approval of the registration of the project under paragraphs 15(4)(a), (b), (c), (e) and (n) of the Act; and
 - (ii) meets all relevant requirements under the Act and this instrument; and
 - (iii) is being carried out in accordance with the methodology determination that covers the project (the ***applicable methodology determination***) and the project plan (if any) for the project; and
 - (d) address whether the audited report has met all relevant requirements under the Act, this instrument and the applicable methodology determination; and
 - (e) if another audit has been carried out in respect of the registered biodiversity project—address whether, and how, any issues raised in that audit have been addressed; and
 - (f) address any other matter that the Regulator and the project proponent have agreed should be included in the report; and
 - (g) include the outcome of the audit.

Division 2—Notification requirements

71 Operation of this Division

For the purposes of Division 3 of Part 9 of the Act, this Division makes provision for or in relation to requirements to notify the Regulator of certain matters.

72 Notification requirements—significant reversal in biodiversity outcome

- (1) For the purposes of subsection 111(1) of the Act, this section prescribes circumstances in which, for the purposes of paragraphs 109(1)(b) and 110(1)(b) of the Act:

- (a) there is taken to have been a reversal of a biodiversity outcome to which a registered biodiversity project relates; and
- (b) the reversal is taken to be significant, or not taken to be significant.

Note: The project proponent for the project may contravene a civil penalty provision at subsection 109(2) or 110(2) of the Act if the proponent fails to notify the Regulator of a significant reversal of the biodiversity outcome to which the project relates.

Circumstance—reversal affects a particular part of the project area

- (2) A circumstance is that:
- (a) a reversal of a biodiversity outcome to which a registered biodiversity project relates has occurred on or in a particular part (the ***affected part***) of the project area for the project; and
 - (b) if the affected part is at least 10% of the project area for the project—the reversal is taken to be significant; and
 - (c) if the affected part is less than 10% of the project area for the project—the reversal is not taken to be significant.

Circumstance—reversal caused by an event or conduct

- (3) A circumstance is that:
- (a) a reversal of a biodiversity outcome to which a registered biodiversity project relates has been caused by an event or conduct; and
 - (b) if the effect of the reversal on the project area for the project caused by the event or conduct is or is likely to be of material consequence to the biodiversity outcome—the reversal is taken to be significant; and
 - (c) if the effect of the reversal on the project area for the project caused by the event or conduct is minor, and is likely to be resolved within a short period of time without the need for any actions or intervention by the project proponent—the reversal is not taken to be significant.
- (4) For paragraphs (3)(b) and (c), in considering the effect of the reversal on the project area for the project caused by the event or conduct, take into account the intensity, duration, magnitude and geographic extent of the event or conduct.

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73 Notification requirements—specified matters

- (1) For the purposes of subsection 114(1) of the Act, the project proponent for a registered biodiversity project must notify the Regulator of a matter specified in subsection (2) of this section.

Note: The person may contravene the civil penalty provision at subsection 114(3) of the Act if the person fails to comply with a requirement in this section.

- (2) The matters are the following:
- (a) any of the following is changed:
 - (i) the proponent's name;
 - (ii) the proponent's contact details;
 - (iii) any other matter in respect of which information was required, under subsection 11(3) of this instrument, to be provided to the Regulator in an application under subsection 11(1) of the Act;
 - (b) the proponent becomes aware that there is an error in a biodiversity project report about the project, and the error is relevant to the requirements specified in section 35 that the Regulator must be satisfied of in considering whether to cancel the registration of the project;
 - (c) the proponent becomes aware that there is an error in a biodiversity project report about the project, and the error is relevant to the criteria mentioned in subsection 70(2) of the Act that the Regulator must be satisfied of in considering whether to issue a biodiversity certificate in respect of the project;
 - (d) there is a change in how the project is being carried out, in respect of which:
 - (i) the change is not of a minor nature; and
 - (ii) the change relates to activities that are being, or are to be, carried out for the purposes of the project; and
 - (iii) the change is relevant to requirements specified in section 35 that the Regulator must be satisfied of in considering whether to cancel the registration of the project; and
 - (iv) the proponent has not previously provided information to the Regulator about the change;
 - (e) the proponent becomes aware that information to which paragraph 31(2)(b) of the Act applies, that has been given by a person to the Regulator in connection with the project, is false or misleading in a material particular.

Note: For paragraphs (a) and (b), if there are multiple project proponents, the reference to the project proponent is to be read as a reference to each of the multiple project proponents—see section 36 of the Act.

- (3) The notification must:
- (a) be in writing; and
 - (b) be made:
 - (i) for a matter specified in subparagraph (2)(a)(i) or (ii)—within 30 days after the change occurs; and
 - (ii) otherwise—within 60 days after the matter occurs.

Part 12—Deposit of biodiversity certificates with the Regulator

74 Operation of this Part

For the purposes of Part 12 of the Act, this Part makes provision for or in relation to the deposit of biodiversity certificates with the Regulator.

75 Application to approve deposit of biodiversity certificate with Regulator—documents

- (1) For the purposes of paragraph 140(3)(a) of the Act, this section specifies the document that must accompany an application for the Regulator to approve the deposit of a biodiversity certificate with the Regulator.
- (2) The document is a signed declaration by the holder of the certificate to the effect that the holder acknowledges and accepts:
 - (a) the effect of subsection 142(1) of the Act in respect of the certificate if the Regulator approves the deposit of the certificate with the Regulator; and
 - (b) that the holder will need to continue to comply with requirements under the Act that apply in relation to the certificate.

Part 15—Registers

Division 1—Entries in the Register

Subdivision A—Information about biodiversity projects

76 Operation of this Subdivision

For the purposes of section 162 of the Act, this Subdivision makes provision for or in relation to matters that must be set out in the Register for each registered biodiversity project.

77 Describing project areas for registered biodiversity projects

- (1) For the purposes of paragraph 162(1)(b) of the Act, this section sets out requirements for describing the project area for a registered biodiversity project.
- (2) The project area must be described by reference to the following:
 - (a) if any part of the project area is located in a State or Territory—the State or Territory in which the project area is located;
 - (b) if any part of the project area is Torrens system land or Crown land:
 - (i) the street address, lot number and land title details (if any) for the land; and
 - (ii) the local government area (if any) in which the land is situated;
 - (c) if any part of the project area is Australian waters (other than inland waters)—the boundary of those waters;
 - (d) a map of the project area, or an electronic link to the map.
- (3) If paragraph (2)(c) applies, the Register must set out the details of how the boundaries of the waters are defined.

78 Information about registered projects under related schemes

- (1) For the purposes of subparagraph 162(1)(i)(iii) and paragraph 162(3)(b) of the Act, this section specifies:
 - (a) the requirements that must be met for information to be set out in the Register about the extent to which a project area, or any part of a project area, is also an area (the *related scheme area*) on or in which a registered project under a related scheme has been, is being, or is to be, carried out; and
 - (b) the documents that must accompany the request for the information to be set out in the Register.
- (2) For paragraph (1)(a), the requirements are that the information must:
 - (a) identify the registered project under the related scheme; and
 - (b) if the registered project is a project that is declared as an eligible offsets project under the *Carbon Credits (Carbon Farming Initiative) Act 2011*—include the unique project identifier for the project; and

- (c) state the extent to which the project area overlaps the related scheme area and whether that overlap is material; and
 - (d) state the overlap (if any) of the duration of the registration of the projects.
- (3) For paragraph (1)(b), the document is a map or geospatial data that shows the overlap mentioned in paragraph (2)(c).

79 Information about project plans for registered biodiversity projects

- (1) For the purposes of paragraph 162(1)(j) of the Act, this section prescribes information about a project plan for a registered biodiversity project that must be set out in the Register.
- (2) The information is the following:
- (a) a statement that the methodology determination that covers the project requires that there is a project plan for the project;
 - (b) a copy of the project plan, or an electronic link to the project plan;
 - (c) if the project plan is varied, and a copy of the project plan as varied is given to the Regulator under section 113 of the Act—a copy of the varied plan, or an electronic link to the varied plan.

80 Other information about registered biodiversity projects

- (1) For the purposes of paragraph 162(1)(m) of the Act, this section prescribes other information about a registered biodiversity project that must be set out in the Register.
- (2) The information is the following:
- (a) the unique identifier assigned for the project;
 - (b) the activity period (if any) and the permanence period of the project;
 - (c) the day on which the approval of the registration of the project takes effect;
 - (d) if the registration of the project is varied—the day on which the registration is varied and a description of the variation;
 - (e) the activities that are being carried out for the purposes of the project;
 - (f) if the methodology determination (the ***applicable methodology determination***) that covers the project is varied:
 - (i) a statement to that effect; and
 - (ii) whether the variation of the determination applies, or does not apply, to the project;
 - (g) if the applicable methodology determination ceases to be in force:
 - (i) a statement to that effect; and
 - (ii) whether, despite the cessation, the determination continues to cover the project and, if so, the day (if any) on which the determination ceases to cover the project;
 - (h) whether the project area overlaps with the project area of another registered biodiversity project and, if so, the unique identifier assigned for that other project;
 - (i) whether:
 - (i) the project area is or includes a native title area; or

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- (ii) a registered indigenous land use agreement is relevant to the project;
- (j) if the project area (or part) for the project is, or overlaps with, an area classified by the IBRA as a bioregion—the name of the bioregion;
- (k) for any part of the project area located on land—the size of that area, in hectares;
- (l) for any part of the project area located in waters—the size of that area, in square metres or kilometres;
- (m) if information about the project, or the project area (or part) for the project, is not set out in the Register because of a decision under section 163 or 163A of the Act—a statement to the effect that such a decision has been made and the date of the decision;
- (n) if a relinquishment notice is given in relation to a biodiversity certificate issued in relation to the project:
 - (i) the date the notice is given; and
 - (ii) if the decision to give the notice is, upon review under Part 20, affirmed, varied or revoked—a statement to that effect and the date the review decision is made;
- (o) if the project area (or part) for the project is subject to a biodiversity maintenance declaration:
 - (i) the date the declaration is made; and
 - (ii) if the declaration is varied or revoked—a statement to that effect and the date it is varied or revoked;
- (p) for each category A biodiversity project report given to the Regulator in respect of the project:
 - (i) a copy of the report, or an electronic link to the report; and
 - (ii) the reporting period for the report;
- (q) for each category B biodiversity project report (if any) given to the Regulator in respect of the project:
 - (i) a copy of the report, or an electronic link to the report; and
 - (ii) the reporting period for the report;
- (r) for each audit report given to the Regulator under the Act in relation to the project:
 - (i) the kind of report it is; and
 - (ii) the date the report is given to the Regulator; and
 - (iii) the outcome of the report;
- (s) if an enforceable undertaking is accepted under section 114 of the *Regulatory Powers (Standard Provisions) Act 2014* in relation to compliance, in respect of the project, by the project proponent for the project with a provision of the Act or this instrument:
 - (i) the date the undertaking is accepted; and
 - (ii) if the undertaking is withdrawn, varied or cancelled—a statement to that effect and the date it is withdrawn, varied or cancelled.

81 Information about former registered biodiversity projects

- (1) For the purposes of subsection 162(5) of the Act, this section prescribes information for biodiversity projects that have been, but have ceased to be, registered biodiversity projects.
- (2) The information is the following:
 - (a) the information required to be set out in the Register about the project before the project ceased to be a registered biodiversity project;
 - (b) the reason the project ceased to be a registered biodiversity project;
 - (c) the date on which the project ceased to be a registered biodiversity project.

Subdivision B—Information about biodiversity certificates

82 Operation of this Subdivision

For the purposes of section 164 of the Act, this Subdivision makes provision for or in relation to matters that must be set out in the Register for each biodiversity certificate that is in effect, or that has ceased to be in effect.

83 Information about biodiversity certificates that are in effect

- (1) For the purposes of paragraph 164(1)(e) of the Act, this section prescribes information that must be set out in the Register for each biodiversity certificate that is in effect.

Note: For other information that must be set out in the Register for each biodiversity certificate that is in effect, see paragraphs 164(1)(a) to (d) of the Act.
- (2) The information is the following:
 - (a) the unique identifier assigned for the certificate;
 - (b) the account number and holder of the Register account in which the certificate is held;
 - (c) each previous holder (if any) of the certificate;
 - (d) if the certificate is varied—details of the variation;
 - (e) if an instruction is made under paragraph 95(1)(a) to transfer the certificate:
 - (i) the date the instruction was made; and
 - (ii) a record of the instruction.

84 Information about biodiversity certificates that have ceased to be in effect

- (1) For the purposes of paragraph 164(2)(e) of the Act, this section prescribes information that must be set out in the Register for each biodiversity certificate that has ceased to be in effect.

Note: For other information that must be set out in the Register for such certificates, see paragraphs 164(2)(a) to (d) of the Act.
- (2) The information is the following:
 - (a) the unique identifier assigned for the certificate;
 - (b) if the certificate was varied before it ceased to be in effect—the details of the variation;

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- (c) the reason the certificate ceased to be in effect;
- (d) the account number and holder of the Register account in which the certificate was held at the time it ceased to be in effect.

Subdivision C—Information about Register accounts

85 Operation of this Subdivision

For the purposes of section 167 of the Act, this Subdivision makes provision for or in relation to the Register.

86 Information about Register accounts that have been closed

For the purposes of paragraph 167(2)(a) of the Act, the Register must set out, for each Register account closed under Subdivision E of Division 2 of this Part:

- (a) the account number and holder of the Register account; and
- (b) whether the closure was voluntary or unilateral; and
- (c) the date the Register account was closed; and
- (d) the details of any biodiversity certificates cancelled because of the closure of the Register account.

Division 2—Register accounts

Subdivision A—Preliminary

87 Operation of this Division

For the purposes of sections 165 and 167 of the Act, this Division makes provision for or in relation to:

- (a) empowering the Regulator to open accounts in the Register to hold biodiversity certificates; and
- (b) the Register.

88 Register accounts

- (1) An account in the Register kept in the name of a person is to be known as a **Register account** of the person.
- (2) The person is the **holder** of the Register account.
- (3) Each Register account is to be identified by a unique number, to be known as the **account number** of the Register account.
- (4) A person may hold 2 or more Register accounts.

Subdivision B—Opening of Register accounts

89 Request to open Register account

A person (the **applicant**) may request the Regulator to open a Register account in the applicant's name.

90 Form of request

- (1) A request under section 89:
 - (a) must be in writing; and
 - (b) must be in a form approved, in writing, by the Regulator; and
 - (c) if the applicant is not an individual—must nominate one or more individuals as authorised representatives of the applicant for the Register account; and
 - (d) if the applicant is an individual—may include such a nomination; and
 - (e) for each individual nominated as an authorised representative of the applicant for the Register account—must include evidence that the individual has sufficient authority to act on the applicant's behalf in respect of the account; and
 - (f) must include identity evidence for:
 - (i) the applicant; and
 - (ii) each individual nominated as an authorised representative of the applicant for the Register account; and

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- (iii) if identity evidence for an individual is required under paragraph 123(1)(c) or 124(c) or (d)—each such individual; and
 - (g) subject to subsection (2), if:
 - (i) the applicant is a proprietary or private company; and
 - (ii) an owner (a **beneficial owner**) in relation to the company is an individual who owns, through one or more shareholdings, over 25% of the issued capital in the company;

must include the name and address of each beneficial owner of the applicant.
- (2) Paragraph (1)(g) does not apply to a proprietary company if the company is:
 - (a) a publicly listed company in Australia, or a wholly owned subsidiary of such a company; or
 - (b) licensed and subject to the regulatory oversight of a Commonwealth statutory regulator in relation to its activities as a company.
- (3) The approved form may require the following information to be provided if the information is relevant to the applicant, or an authorised representative, officer, employee or trustee of the applicant:
 - (a) a person's full name, address and contact details;
 - (b) a person's business name and, if different, trading name;
 - (c) the address of a person's principal place of business;
 - (d) a person's ABN, ACN, ARBN, GST registration number, Indigenous corporation number or other unique number;
 - (e) an individual's date of birth and residential address;
 - (f) each name by which an individual is known by;
 - (g) a person's status as one of the following:
 - (i) an individual, including an individual who is a sole trader;
 - (ii) a body corporate;
 - (iii) a trust;
 - (iv) a corporation sole;
 - (v) a body politic;
 - (vi) a local governing body;
 - (vii) any other kind of entity;
 - (h) if subparagraph (g)(vii) applies—the kind of entity the person is;
 - (i) a description of the form in which a body corporate has been incorporated;
 - (j) a description of the type of trust a trust is;
 - (k) the full name and date of birth of the beneficiaries of a trust;
 - (l) details about a class of which beneficiaries of a trust are members;
 - (m) each jurisdiction in which a person operates;
 - (n) the full name, address and contact details of any Australian agent through which a body corporate that is a foreign person conducts business.

Note 1: The Regulator may require further information in connection with the request: see section 128.

Note 2: The approved form of application may provide for verification by statutory declaration of statements in the request: see section 129.

91 When Regulator must open Register account

- (1) This section applies if a request under section 89 has been made for the Regulator to open a Register account in the applicant's name.
- (2) The Regulator must open a Register account in the name of the applicant if the Regulator is satisfied that:
 - (a) the applicant is a fit and proper person; and
 - (b) for each person in respect of which identity evidence is required to be included with the application—the identity of the person is verified in accordance with the identification procedures in Division 1 of Part 21; and
 - (c) if the applicant is not an individual—each authorised representative of the applicant has sufficient authority to act on the applicant's behalf.
- (3) If the Regulator refuses to open a Register account in response to the request, the Regulator must give written notice of the decision to the applicant as soon as practicable after making the decision.

Subdivision C—Commonwealth Register accounts

92 Secretary may direct Regulator to open Commonwealth Register account

- (1) The Secretary may, in writing, direct the Regulator to open a Register account to be kept in the name of the Commonwealth.
- (2) The direction must specify the name by which the account is to be known, which must be a name specified in section 93.
- (3) The Regulator must comply with the direction.

93 Names of Commonwealth Register accounts

The names of Commonwealth Register accounts are the following:

- (a) the Commonwealth holding account;
- (b) the biodiversity certificate relinquishment account;
- (c) the Commonwealth deposit of certificates account.

Subdivision D—Property in, and transfer of, biodiversity certificates

94 Transfer of biodiversity certificate between Register accounts

- (1) Subject to this Subdivision, the Regulator may transfer a biodiversity certificate in accordance with this section between:
 - (a) Register accounts held by different persons; and
 - (b) Register accounts held by the same person.
- (2) If there is an entry for a biodiversity certificate in a Register account (the **first Register account**) held by a person (the **first person**):
 - (a) the transfer of the certificate from the first Register account to a Register account held by another person consists of:

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- (i) the removal of the entry for the certificate from the first Register account; and
 - (ii) the making of an entry for the certificate in the Register account held by the other person; and
- (b) the transfer of the certificate from the first Register account to another Register account held by the first person consists of:
 - (i) the removal of the entry for the certificate from the first Register account; and
 - (ii) the making of an entry for the certificate in the other Register account held by the first person.

95 Instruction to transfer biodiversity certificate

- (1) An instruction to transfer a biodiversity certificate for which there is an entry in a Register account is of no force until:
 - (a) the transferor, by electronic notice transmitted to the Regulator, instructs the Regulator to transfer the certificate from the relevant Register account kept by the transferor to a Register account kept by the transferee; and
 - (b) the Regulator complies with that instruction.

Note: The transferor and transferee may be the same person.

- (2) An instruction under paragraph (1)(a) must set out the account number and holder of:
 - (a) the Register account from which the certificate is to be transferred; and
 - (b) the Register account to which the certificate is to be transferred.
- (3) If the Regulator receives an instruction under paragraph (1)(a), the Regulator must comply with the instruction as soon as practicable after receiving it.
- (4) If the transferor is the Commonwealth, the Secretary may give an instruction under subsection (1) on behalf of the transferor.

Subdivision E—Closure of Register accounts

96 Voluntary closure of Register account

- (1) The holder of a Register account may request the Regulator to close the Register account.
- (2) The holder may make the request only if there are no biodiversity certificates held in the account.
- (3) The request must:
 - (a) be in writing; and
 - (b) be in a form approved, in writing, by the Regulator.
- (4) The Regulator must, as soon as practicable after receiving the request:
 - (a) close the Register account; and
 - (b) notify the holder that the account has been closed.

97 Unilateral closure of Register account

- (1) The Regulator may close a Register account if the Regulator is satisfied that the holder of that account:
 - (a) is no longer a fit and proper person; or
 - (b) has contravened, or is contravening:
 - (i) rules made for the purposes of paragraph 167(2)(i) of the Act (which require the holders of Register accounts to notify the Regulator of specified events); or
 - (ii) rules made for the purposes of subsection 168(1) or (2) of the Act (which deal with the use or disclosure of information obtained from the Register).

Notice of intention

- (2) Before deciding to close the Register account, the Regulator must:
 - (a) use all reasonable efforts to notify the holder of the Register account, by written notice, of the Regulator's intention to close the account; and
 - (b) consider any submissions made in response to the notice.
- (3) The notice must:
 - (a) include the following:
 - (i) the reasons why the Regulator intends to close the account;
 - (ii) a statement of the effect of the closure of the account on any biodiversity certificates held in the account immediately before the closure; and
 - (b) invite the holder of the Register account to make submissions to the Regulator within a specified period, which must not be less than 30 days.

Notice of decision

- (4) If the Regulator decides to close the Register account under this section, the Regulator must give written notice of the decision to the holder (if any) of the Register account as soon as practicable after making the decision.

98 Effect of closure of Register account—cancellation of biodiversity certificate

A biodiversity certificate is cancelled if:

- (a) the certificate is held in a Register account; and
- (b) the Register account is closed under section 97.

Subdivision F—Authorised representatives

99 Nomination of authorised representative

- (1) The holder of a Register account may, at any time, nominate an individual as an authorised representative of the holder for the Register account.

Note: Authorised representatives for the account may also be nominated in the request to open the account: see paragraphs 90(1)(c) and (d).

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- (2) The nomination must:
 - (a) be in writing; and
 - (b) be in a form approved, in writing, by the Regulator; and
 - (c) include evidence that the proposed representative has sufficient authority to act on the holder's behalf in respect of the account; and
 - (d) include evidence that verifies the identity of the proposed representative in accordance with the identification procedures in Division 1 of Part 21.
- (3) The approved form may require information mentioned in subsection 90(3) to be provided if the information is relevant to the proposed representative.

100 Revocation of nomination of authorised representative

- (1) The holder of a Register account may, at any time, revoke the nomination of an authorised representative of the holder for the Register account.

Note: The nomination may have been made either:

- (a) in the request to open the account (see paragraphs 90(1)(c) and (d)); or
- (b) after the account is opened (see section 99).

- (2) The revocation of the nomination must:
 - (a) be in writing; and
 - (b) be in a form approved, in writing, by the Regulator.

101 Approval to access and deal with Register account

- (1) The Regulator may grant to an authorised representative of the holder of a Register account an approval to access and deal with the account.
- (2) Subject to subsection (5), the Regulator may grant the approval only if the Regulator is satisfied that:
 - (a) the representative is a fit and proper person; and
 - (b) if the representative is nominated under section 99—the identity of the representative is verified in accordance with the identification procedures in Division 1 of Part 21.
- (3) If the Regulator decides to grant the approval, the representative may:
 - (a) view the details of the account; and
 - (b) initiate transactions in relation to the account; and
 - (c) approve transactions in relation to the account.
- (4) If the Regulator decides not to grant the approval, the Regulator must as soon as practicable:
 - (a) notify the holder of the Register account of the decision and the reasons for the decision; and
 - (b) if the holder is not an individual, and there are no other authorised representatives of the holder for the Register account—require the holder to nominate, under section 99, another individual as the authorised representative for the account.

Authorised representatives for Commonwealth Register accounts

- (5) For the purposes of subsection (2), an authorised representative for a Commonwealth Register account is taken to be a fit and proper person if the representative is an SES employee.

102 Revocation of approval to access and deal with Register account

- (1) The Regulator may revoke an approval granted under section 101 to an authorised representative of the holder of a Register account if the Regulator is no longer satisfied that the representative is a fit and proper person.
- (2) As soon as practicable after revoking the approval, the Regulator must:
- (a) notify the holder of the Register account of the decision and the reasons for the decision; and
 - (b) if the holder is not an individual and there are no other authorised representatives of the holder for the Register account—require the holder to nominate, under section 99, another authorised representative for the account.

Subdivision G—Correction and rectification of Register

103 Correction of clerical errors, obvious defects or unauthorised entries etc.

Power of correction

- (1) The Regulator may alter the Register for the purposes of correcting:
- (a) a clerical error or an obvious defect in the Register; or
 - (b) an entry made in the Register without sufficient cause; or
 - (c) an entry wrongly existing in the Register; or
 - (d) an entry wrongly removed from the Register.
- (2) The Regulator may alter the Register under this section:
- (a) on receiving a request to make the alteration; or
 - (b) on the Regulator's own initiative.
- (3) A request under paragraph (2)(a) must:
- (a) be in writing; and
 - (b) be in a form approved, in writing, by the Regulator.
- (4) The Regulator must not alter the Register under this section in a manner contrary to a decision of the Federal Court in proceedings under section 104.

Publication of alteration

- (5) If the Regulator alters the Register under this section, the Regulator must cause to be published on the Regulator's website a notice setting out the details of the alteration.

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Notice of decision

- (6) If the Regulator refuses to alter the Register in response to a request to make the alteration, the Regulator must give written notice of the decision and the reasons for the decision to the applicant.
- (7) If the Regulator alters the Register on the Regulator's own initiative, and the alteration is in relation to a Register account, the Regulator must give written notice of the alteration to the holder (if any) of the Register account as soon as practicable after making the alteration.

104 Rectification of Register

Application for rectification by aggrieved person

- (1) A person (the **applicant**) may apply to the Federal Court for the rectification of the Register if the applicant is aggrieved by any of the following:
 - (a) the omission of an entry from the Register;
 - (b) an entry made in the Register without sufficient cause;
 - (c) an entry wrongly existing in the Register;
 - (d) an error or defect in an entry in the Register;
 - (e) an entry wrongly removed from the Register.
- (2) The applicant must give notice of the application to the Regulator, whose representative:
 - (a) may appear and be heard; and
 - (b) must appear if so directed by the court.

Court orders

- (3) If an application is made to the Federal Court for the rectification of the Register, the court may make such order as it thinks fit directing the rectification of the Register.
- (4) An order made by the court must not be expressed to take effect before the order is made.
- (5) In proceedings under this section, the court may decide any question that is necessary or expedient to decide in connection with the rectification of the Register.
- (6) The applicant must give a copy of an order made by the court to the Regulator.

Compliance with court order

- (7) The Regulator must, on receipt of the order, rectify the Register accordingly.

Subdivision H—Miscellaneous

105 Change of name of Register account holder

- (1) If:

- (a) a Register account is kept in the name of a person; and
 - (b) the name of the person is changed;
- the person may request the Regulator to have the new name substituted for the previous name in the Register in relation to the account.
- (2) The request must:
 - (a) be in writing; and
 - (b) be in a form approved, in writing, by the Regulator.
 - (3) The Regulator must make the necessary alterations in the Register as requested, as soon as practicable after receiving the request, if the Regulator is satisfied the person's name has changed.
 - (4) The Regulator must notify the person, as soon as practicable, of the alteration.
 - (5) If the Regulator is not satisfied the person's name has changed, the Regulator must notify the person, as soon as practicable, of the decision to not make the alteration in response to the request.

106 Requirement to notify Regulator of certain events in relation to Register accounts

- (1) The holder of a Register account must notify the Regulator of the occurrence of any of the following events:
 - (a) a biodiversity certificate has been incorrectly transferred to or from the Register account;
 - (b) a change of the holder's name, business name or trading name;
 - (c) a change of the holder's contact details;
 - (d) a change of the name of the holder's authorised representative;
 - (e) a change of the contact details of the holder's authorised representative;
 - (f) an event that is relevant to whether the holder, or the holder's authorised representative, is a fit and proper person.

Note: The holder of the account may contravene the civil penalty provision at subsection 167(4) of the Act if the holder fails to comply with this section.

- (2) The notice must:
 - (a) be in writing; and
 - (b) be in a form approved, in writing, by the Regulator; and
 - (c) for an event mentioned in paragraph (1)(b) or (d)—be accompanied by a document that evidences the change; and
 - (d) be made:
 - (i) for an event mentioned in paragraph (1)(a)—as soon as practicable after the holder becomes aware of the event; and
 - (ii) otherwise—within 28 business days after the event occurs.

107 Evidentiary provisions

The Regulator may supply a copy of, or extract from, the Register certified by the Regulator to be a true copy or true extract, as the case may be.

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Note: See also section 155 of the *Evidence Act 1995*.

Part 16—Publication of information

108 Operation of this Part

For the purposes of Part 16 of the Act, this Part makes provision for or in relation to information the Regulator must publish.

109 Information about biodiversity certificates

Information to be published after biodiversity certificate is issued

- (1) For the purposes of paragraph 171(1)(b) of the Act, the following is the information that the Regulator must publish on the Regulator's website after a biodiversity certificate is issued to a person:
 - (a) the account number and holder of the Register account in which the certificate is held;
 - (b) the day on which the Regulator issued the certificate by making an entry in that Register account.

Information to be published after biodiversity certificate is varied

- (2) For the purposes of paragraph 171(2)(b) of the Act, the following is the information that the Regulator must publish on the Regulator's website after a variation of a biodiversity certificate is made:
 - (a) the account number and holder of the Register account in which the certificate is held;
 - (b) the day on which the variation is made;
 - (c) details of the variation, including:
 - (i) whether the certificate was varied under section 27 of this instrument or subsection 34(12) or section 70A of the Act; and
 - (ii) if the certificate was varied as a result of a voluntary variation of the registration of the biodiversity project in respect of which the certificate was issued—the date the notice of the decision to vary the certificate was given to the holder of the certificate.

Information to be published after biodiversity certificate is transferred

- (3) For the purposes of paragraph 171(3)(b) of the Act, the following is the information that the Regulator must publish on the Regulator's website after a biodiversity certificate is transferred from one Register account to another Register account:
 - (a) the account number and holder of the Register account in which the certificate is held after the transfer;
 - (b) the day on which the Regulator transfers the certificate by making an entry for the certificate in that Register account.

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110 Reports about activities of the Regulator

- (1) For the purposes of subsection 172(2) of the Act, this section prescribes the matters that must be dealt with in a report about the activities of the Regulator under the Act during a financial year.
- (2) The matters are the following:
 - (a) the number of registrations of biodiversity projects approved during the year;
 - (b) the number of registrations of biodiversity projects varied during the year;
 - (c) for each variation mentioned in paragraph (b)—whether the variation was:
 - (i) to change the identity of the project proponent for the project; or
 - (ii) to change the project area of the project; or
 - (iii) to change the methodology determination that covers the project; or
 - (iv) to change the project's activity period; or
 - (v) to change the project's permanence period; or
 - (vi) to remove a condition of registration;
 - (d) the number of registrations of biodiversity projects cancelled during the year;
 - (e) for each cancellation mentioned in paragraph (d)—the reason for the cancellation;
 - (f) the number of biodiversity certificates issued during the year;
 - (g) the number of biodiversity certificates varied during the year;
 - (h) the number of biodiversity certificates cancelled during the year;
 - (i) the number of deposits of biodiversity certificates approved by the Regulator during the year;
 - (j) the number of audits required by the Regulator under Part 11 of the Act to be undertaken during the year of persons who are, or have been, project proponents for registered biodiversity projects;
 - (k) for each audit covered by paragraph (j):
 - (i) the methodology determination that covered the registered biodiversity project; and
 - (ii) for each audit completed during the year—the outcome of the audit;
 - (l) the number of biodiversity certificates relinquished during the year;
 - (m) for each relinquishment mentioned in paragraph (l)—the reason for the relinquishment;
 - (n) the number of civil penalty orders made during the year;
 - (o) the number of infringement notices given during the year;
 - (p) the number of enforceable undertakings accepted during the year;
 - (q) the number of injunctions granted during the year.

Part 17—Record-keeping requirements

111 Operation of this Part

For the purposes of Part 17 of the Act, this Part includes requirements for the making and retention of records.

112 Record-keeping requirements—general

- (1) For the purposes of subsection 179(1) of the Act, this section:
 - (a) specifies information that the project proponent for a registered biodiversity project must make a record of, where the information is relevant to the Act; and
 - (b) makes provision for the proponent to retain the record.

Note: The project proponent may contravene the civil penalty provision at subsection 179(2) of the Act if the proponent fails to comply with a requirement in this section.
- (2) The specified information is the following:
 - (a) correspondence between the project proponent and the Regulator that is relevant to the project;
 - (b) information that substantiates any applications or notifications made under the Act in relation to the project;
 - (c) biodiversity project reports about the project;
 - (d) biodiversity audit reports (if any) about the project;
 - (e) details of any significant change to the scope or location of the project;
 - (f) information that shows that the project continues to meet the criteria for the approval of the registration of the project under paragraphs 15(4)(a), (b), (c), (e) and (n) of the Act;
 - (g) the following information in relation to the methodology determination that covers the project:
 - (i) information that shows that the project is, and continues to be, covered by the determination;
 - (ii) information that shows that the conditions (if any) set out in the determination for the purposes of paragraph 45(1)(b) of the Act continue to be met;
 - (iii) information that shows that the determination is being complied with;
 - (iv) information about the activities set out in the determination that are being carried out for the purposes of the project (see paragraph 45(1)(h) of the Act);
 - (v) if the determination provides that there must be a project plan for the project during a period—information that shows that the project plan is being implemented during that period;
 - (vi) information that is required by the determination to be recorded for the project;

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- (vii) information that shows that any monitoring requirements for the project imposed by the determination are being complied with, including data that is collected during monitoring;
 - (h) information that shows that the biodiversity outcome for the project has been, or is likely to be, achieved;
 - (i) information about any event that has, or is reasonably likely to, significantly increase or decrease the likelihood of the biodiversity outcome for the project being achieved;
 - (j) information provided to the Regulator for the purposes of the Regulator issuing a biodiversity certificate.
- (3) The specified information may include photographs and videos.
- (4) The project proponent must retain:
 - (a) the record; or
 - (b) a copy of the record;for 7 years after the record is made.

113 Record-keeping requirements—preparation of biodiversity project report

- (1) For the purposes of subsection 180(2) of the Act, this section sets out record-keeping requirements that a project proponent for a registered biodiversity project must meet if the project proponent:
 - (a) makes a record of particular information; and
 - (b) uses the information to prepare a biodiversity project report.
- Note: The project proponent may contravene the civil penalty provision at subsection 180(3) of the Act if the proponent fails to comply with a requirement in this section.
- (2) The information may include photographs and videos.
 - (3) The project proponent must retain:
 - (a) the record; or
 - (b) a copy of the record;for 7 years after the biodiversity project report is given to the Regulator.

Part 19—Nature Repair Committee

114 Operation of this Part

For the purposes of subsection 201(1) of the Act, this Part sets out the procedures to be followed at or in relation to meetings of the Nature Repair Committee.

115 Procedure at meetings

- (1) The Nature Repair Committee must hold such meetings as are necessary for the performance of its functions under the Act.
- (2) The meetings of the Committee may be held face to face or via teleconference.
- (3) The secretariat of the Committee:
 - (a) must take minutes of the meetings; and
 - (b) may convene a meeting at any time; and
 - (c) must convene a meeting at the request of the Chair of the Committee.

116 Quorum at meetings

- (1) At a meeting of the Nature Repair Committee, a quorum is constituted by 4 Nature Repair Committee members.
- (2) The quorum under subsection (1) must include the Chair of the Committee, unless:
 - (a) subsection (3) applies in the circumstance where section 203 of the Act has prevented the Chair from participating in the deliberations or decisions of the Committee with respect to a particular matter; or
 - (b) there is no Chair appointed; or
 - (c) the Chair is incapacitated; or
 - (d) the Chair informs the Committee that the Chair's presence is not necessary for the quorum at a particular meeting.
- (3) Despite subsection (1), if:
 - (a) section 203 of the Act prevents a Nature Repair Committee member from participating in the deliberations or decisions of the Committee with respect to a particular matter; and
 - (b) when the member leaves the meeting concerned there is no longer a quorum present; and
 - (c) the number of members still remaining at the meeting is 3;the remaining members at the meeting constitute a quorum for the purpose of any deliberation or decision at the meeting with respect to that matter.

117 Presiding at meetings

- (1) The Chair of the Nature Repair Committee must preside at all meetings.

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- (2) However:
 - (a) if section 203 of the Act prevents the Chair from participating in the deliberations or decisions of the Committee with respect to a particular matter, the Committee may appoint an acting Chair from the members present to preside at the meeting concerned during any deliberation or decision with respect to that matter; and
 - (b) if there is no Chair appointed or the Chair is absent from the meeting, the Committee may appoint an acting Chair from the members present to preside at the meeting concerned.

118 Manner of deciding questions

- (1) Any question arising at a meeting of the Nature Repair Committee must be determined by resolution.
- (2) A resolution is taken to have been passed if:
 - (a) more than half the present and voting members vote for the resolution; and
 - (b) either:
 - (i) all members were informed of the proposed resolution; or
 - (ii) reasonable efforts were made to inform all members of the proposed resolution.

Part 20—Review of Decisions

119 Operation of this Part

For the purposes of Part 20, this Part prescribes reviewable decisions.

120 Reviewable decisions

For the purposes of paragraph 212(s) of the Act, each of the following decisions is prescribed:

- (a) a determination under paragraph 50(4)(b) that a variation of a methodology determination that covers a registered biodiversity project does apply to the project;
- (b) a determination under paragraph 54(4)(b) that the cessation of effect of a methodology determination that covers a registered biodiversity project does not continue to cover the project;
- (c) a decision under subsection 91(2) to refuse to open a Register account;
- (d) a decision under subsection 97(1) to close a Register account;
- (e) a decision under subsection 101(1) not to grant an approval to an authorised representative of the holder of a Register account to access and deal with the account;
- (f) a decision under subsection 102(1) to revoke an approval granted to an authorised representative of the holder of a Register account to access and deal with the account;
- (g) a decision under subsection 103(1) to refuse to alter the Register on receiving a request to make the alteration, or to alter the Register on the Regulator's initiative;
- (h) a decision under subsection 105(3) to refuse to alter the Register to change the name of the holder of a Register account;
- (i) a decision under subsection 128(2) to refuse to consider, or to refuse to take any action or any further action in relation to, an application or request under this instrument.

Part 21—Miscellaneous

Division 1—Identification procedures

121 Operation of this Division

This Division makes provision for or in relation to identification procedures that the Regulator may or must carry out in relation to matters under this instrument.

122 Identification evidence—individuals

Identification procedures for individuals

- (1) The identity of an individual must be verified in accordance with a procedure specified in this section.

Verification of identity by accepting individual's digital identity

- (2) The identity of an individual may be verified by the individual consenting to the transfer of the individual's digital identity from an identity service provider to the Regulator.
- (3) However, subsection (2) applies only if the Regulator is able to accept that digital identity from that provider.

Verification of identity by means of documentary evidence

- (4) The identity of an individual may be verified by the provision of the following documents to the Regulator:
 - (a) if the individual is an Australian citizen or is ordinarily resident in Australia—3 documents identifying the individual, of a kind set out in clause 1 of Schedule 1, at least one of which must be a category A document;
 - (b) if the individual is a foreign person—3 documents identifying the individual, of a kind set out in clause 2 of Schedule 1, at least one of which must be a category A document;
 - (c) if the individual's name has changed—a document that shows the change of name.

Note: Examples for paragraph (4)(c) include a marriage certificate, a deed poll and a certificate issued by a government authority that recognises the change of name.

- (5) An individual may provide a document identifier for a document in place of a document mentioned in subsection (4) if the Regulator is able to verify the document by providing the document identifier to the document verification service.

Verification of identity by reference by an authorised referee

- (6) If the individual:
 - (a) is an Aboriginal person or a Torres Strait Islander; and

- (b) is unable to provide a digital identity, or the evidence mentioned in subsections (4) and (5);
the identity of the individual may be verified by the provision of a reference confirming the individual's identity to the Regulator by an authorised referee for the individual.
- (7) An **authorised referee** for an individual is a person who:
 - (a) is not the individual's parent, grandparent, sibling, child or grandchild; and
 - (b) has known the individual for at least 12 months; and
 - (c) is one of the following:
 - (i) the Chair, Secretary or chief executive officer of an incorporated indigenous organisation, including a land council, community council or housing organisation;
 - (ii) the individual's employer;
 - (iii) a school principal or a school counsellor;
 - (iv) a minister of religion;
 - (v) a medical practitioner;
 - (vi) a treating health professional (within the meaning of section 197 of the *Social Security Act 1991*) or a manager in an Aboriginal Medical Service;
 - (vii) a person who has been an officer in a Department of State in the Commonwealth or a State or Territory for at least 5 years.
- (8) The authorised referee may confirm the individual's identity from any records within the referee's keeping or control.

123 Identification evidence—persons that are not individuals or trusts

- (1) The identity of a person, other than an individual or a trust, must be verified by the provision to the Regulator of the following evidence:
 - (a) if the person is a body corporate:
 - (i) the certificate of incorporation of the body (whether under Australian law or a foreign law) or, if there is no such certificate, a document with similar effect; and
 - (ii) the certificate of registration of the body with the Australian Securities Investment Commission or, if there is no such certificate, a document of similar effect;
 - (b) if the person is a body corporate that is an incorporated association or a registered co-operative—documentary evidence that the body is an incorporated association or a registered co-operative (for example, an annual report or a constitution);
 - (c) if the person is a body corporate that does not have an ABN—evidence that identifies the identity of each officer of the body mentioned in subsection (2) in accordance with the identification procedures in this Division;
 - (d) if the person is a local governing body—documentary evidence that the body is a local governing body;

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- (e) if the person is a corporation sole—documentary evidence that the person is a corporation sole;
 - (f) if the person is a body politic—documentary evidence that the person is a body politic;
 - (g) if the person is a kind of entity not covered by a preceding paragraph—documentary evidence that the person is that kind of entity.
- (2) For paragraph (1)(c), the officer or officers of the body are:
- (a) if the body is a private company, incorporated association or registered co-operative (whether or not a foreign entity), and has no more than one executive officer—the executive officer of the body;
 - (b) if the body is a foreign company that is public company—an executive officer of the body who is not an authorised representative for the body;
 - (c) if neither paragraph (a) nor (b) applies to the body—2 executive officers of the body.

124 Identification evidence—trusts

The identity of a trust must be verified by the provision of the following evidence to the Regulator:

- (a) if there is a trust deed—the deed, or an extract of the deed that identifies the trustees and beneficiaries (or classes of beneficiary) of the trust;
- (b) if there is no trust deed:
 - (i) a document with similar effect to a trust deed; or
 - (ii) the certificate of registration as a trust (if any);
- (c) for each trustee of the trust who is an individual—the evidence required under section 122 to verify the identity of the trustee;
- (d) for each trustee of the trust that is a body corporate—the evidence required under section 123 to verify the identity of the body corporate.

125 General requirements for documents provided as identity evidence

- (1) This section applies if a person is required to provide a document as identity evidence to the Regulator under this Division.
- (2) The person must provide:
 - (a) if an approved form of application requires, or the Regulator asks to see, the original document—the original document; or
 - (b) otherwise—either a certified copy of the original document or, in accordance with subsection 122(5), a document identifier in place of the document.
- (3) If the document is not written in English, the person must provide an English translation of the document that has been prepared and certified as a true copy of the original document by a translation service accredited by the National Accreditation Authority for Translators and Interpreters Limited.

126 When documents need not be provided under this instrument

- (1) This section applies if a person is required to provide a document as identity evidence to the Regulator under this instrument.
- (2) The person is not required to provide the document to the Regulator under this instrument if:
 - (a) the person has previously provided the document, or a certified copy of the document, in accordance with the registration requirements under:
 - (i) the *Australian National Registry of Emissions Units Act 2011*; or
 - (ii) the *National Greenhouse and Energy Reporting Act 2007*; or
 - (iii) the *Renewable Energy (Electricity) Act 2000*; or
 - (iv) a legislative instrument made under an Act mentioned in a preceding subparagraph; and
 - (b) the person is currently registered under the Act in relation to which the document was previously provided.

Note: For information previously given to the Regulator under the Act, the *Carbon Credits (Carbon Farming Initiative) Act 2011* or legislative instruments made under either of those Acts, see section 222 of the Act.

Division 2—Other matters

127 Operation of this Division

This Division makes provision for or in relation to applications and requests made under this instrument.

128 Regulator may require further information etc.

- (1) The Regulator may, by written notice given to a person who makes an application or request under this instrument, require the person to give the Regulator, within the period specified in the notice, either or both of the following:
 - (a) further information in connection with an application or request;
 - (b) verification by statutory declaration of a statement made in relation to the application or request.
- (2) If the person breaches the requirement, the Regulator may, by written notice given to the person:
 - (a) refuse to consider the application or request; or
 - (b) refuse to take any action, or any further action, in relation to the application or request.

129 Approved forms may require statements to be verified by statutory declaration

A form approved by the Regulator under this instrument may require statements in an application or request made under this instrument to be verified by statutory declaration.

130 Requirements for documents

- (1) A document provided with an application or request made under this instrument must be:
 - (a) if the document is identity evidence—a certified copy of the original document; and
 - (b) if the document is not written in English—an English translation of the document that has been prepared and certified as a true copy of the original document by a translation service accredited by the National Accreditation Authority for Translators and Interpreters Ltd.
- (2) The Regulator may request that a document provided with an application or request made under this instrument, or in response to a request for further information in relation to the application or request, be provided as a certified copy of the original document.

131 Withdrawal of application or request

- (1) A person may withdraw an application or request made under this instrument at any time before the Regulator makes a decision on the application or request.
- (2) If the person does so, this instrument does not prevent the person from making a fresh application or request.

Schedule 1—Identification procedures

Note: See paragraphs 122(4)(a) and (b).

1 Documents for identifying Australian citizens or residents

- (1) This clause specifies documents that may be used to identify an individual who is an Australian citizen or is ordinarily resident in Australia.
- (2) Each of the following are category A documents:
 - (a) a birth certificate issued by a State or Territory;
 - (b) a passport issued by the Commonwealth;
 - (c) a citizenship certificate issued by the Commonwealth, or documentary evidence that the individual has been registered by the Commonwealth as an Australian citizen by descent;
 - (d) a passport or similar document issued for the purpose of international travel, that:
 - (i) contains a photograph and the signature of the individual in whose name the document is issued; and
 - (ii) is issued by a foreign government, the United Nations or an agency of the United Nations; and
 - (iii) has evidence of the individual's immigration status in Australia.
- (3) Each of the following are category B documents:
 - (a) a driver's licence or a learner's permit, issued under a law of a State or Territory, that includes:
 - (i) a photograph of the individual and the individual's signature; and
 - (ii) a street address that is the same as the address stated in the request;
 - (b) a Medicare card;
 - (c) a notice issued within the previous 3 months to the individual by a local government body or utilities provider, which:
 - (i) contains the individual's name; and
 - (ii) contains the individual's street address; and
 - (iii) records the provision of services by the local government body or utilities provider to that address or the individual;
 - (d) an Australian firearms licence issued under a law of a State or Territory that includes:
 - (i) the individual's signature; and
 - (ii) a photograph of the individual; and
 - (iii) a street address that is the same as the address stated in the request;
 - (e) a secondary school or tertiary education student identification card that:
 - (i) includes a photograph of the individual; and
 - (ii) was issued by an education authority that has been accredited by the Commonwealth, a State or Territory government.

2 Documents for identifying individuals who are foreign persons

- (1) This clause specifies documents that may be used to identify an individual who is a foreign person.
- (2) Each of the following are category A documents:
 - (a) a passport or similar document issued for the purpose of international travel, that:
 - (i) contains a photograph and the signature of the individual in whose name the document is issued; and
 - (ii) is issued by a foreign government, the United Nations or an agency of the United Nations;
 - (b) a birth certificate issued by a foreign government, the United Nations or an agency of the United Nations;
 - (c) a national identity card issued for the purpose of identification, that:
 - (i) contains a photograph and the signature of the individual in whose name the document is issued; and
 - (ii) is issued by a foreign government, the United Nations or an agency of the United Nations.
- (3) Each of the following are category B documents:
 - (a) a document issued by a foreign government that identifies the individual;
 - (b) a marriage certificate issued by a foreign government;
 - (c) A driver's licence issued by a foreign government for the purpose of driving a vehicle that contains:
 - (i) a photograph of the individual in whose name the licence is issued; and
 - (ii) a street address that is the same as the address stated in the request.

Schedule 2—Repeals

Nature Repair (Committee) Rules 2024

1 The whole of the instrument

Repeal the instrument.