

## **EXPLANATORY STATEMENT**

Issued by Authority of the Minister for the Environment and Water

*Nature Repair Act 2023*

*Nature Repair (Applications for Approval of Registration of Biodiversity Project)*

*Determination 2025*

### **Purpose**

The purpose of the *Nature Repair (Applications for Approval of Registration of Biodiversity Project) Determination 2025* (the Determination) is to provide that an application to approve the registration of a biodiversity project on the national register (the Register) may be made on or after 1 March 2025.

The Determination has the effect of determining the day that people can apply to register a biodiversity project under the Nature Repair Market.

### **Legislative Authority**

The Determination is made under subsection 11(2) of the *Nature Repair Act 2023* (the NR Act).

Subsection 11(1) of the NR Act provides that an eligible person may apply to the Clean Energy Regulator (the Regulator) for the approval of registration of a biodiversity project on the Register. Subsection 11(2) of the NR Act provides that an application may be made only on or after a day determined by the Minister by legislative instrument.

### **Background**

The NR Act establishes the framework for a voluntary national market (the Nature Repair Market) to encourage nature positive land management practices that deliver improved biodiversity outcomes. Eligible landholders who undertake projects that enhance or protect biodiversity in native species will be able to receive a tradeable certificate (a biodiversity certificate) that will be tracked through a national register. The Nature Repair Market is intended to facilitate private investment in biodiversity, including where carbon storage projects have biodiversity co-benefits.

The NR Act provides that the Nature Repair Market is primarily administered by the Regulator.

The NR Act is supported by legislative instruments including rules, biodiversity assessment instruments and methodology determinations. These instruments contain the operational detail necessary for the establishment and operation of the Nature Repair Market.

### **Consultation**

The Office of Impact Analysis confirmed that an impact analysis is not required for the Determination (OIA OBPR22-03226).

No specific consultation was undertaken in the development of the Determination due to it being minor and machinery in nature.

### **Details and operation**

Details of the Determination are set out in Attachment A.

The Determination commences on the day after the instrument is registered on the Federal Register of Legislation.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Determination is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

**Details of the Nature Repair (Applications for Approval of Registration of Biodiversity Project) Determination 2025**

**Section 1 – Name**

1. Section 1 provides that the name of the instrument is the *Nature Repair (Applications for Approval of Registration of Biodiversity Project) Determination 2025* (the Determination).

**Section 2 – Commencement**

2. Section 2 provides that the Determination commences on the day after the instrument is registered on the Federal Register of Legislation.
3. The note below the table at subsection 2(1) provides that the table relates only to the provisions of the instrument as originally made. It will not be amended to deal with any later amendments of the instrument. The purpose of this note is to clarify that the commencement of any subsequent amendments is not reflected in the table.
4. Subsection 2(2) clarifies that any information in column 3 of the table is not part of the instrument. Information may be inserted in this column, or information in it may be edited, in any published version of the instrument. For example, the date the instrument commenced will be inserted in this column once that has occurred.

**Section 3 – Authority**

5. Section 3 provides that the Determination is made under subsection 11(2) of the *Nature Repair Act 2023* (NR Act).

**Section 4 – Definitions**

6. Section 4 defines key terms used in the Determination. The note at the start of this section directs the reader to other key terms that are used in the Determination but are defined in the NR Act.

**Section 5 – Day on or after which applications may be made**

7. Subsection 11(1) of the NR Act provides for an eligible person to apply to the Clean Energy Regulator (the Regulator) to approve the registration of a biodiversity project on the Register.
8. An *eligible person* is defined in section 7 of the NR Act to cover an individual, a body corporate (including a registered native title body corporate), a trust, a corporation sole, a body politic and a local governing body. This means that landholders, including native title holders (both exclusive possession and non-exclusive possession), are able to apply to register projects on their land. A person would also be able to apply to register a project on land that does not belong to them. However, in such circumstances, certain

consents or approvals would be required to ensure that the applicant has the legal right to carry out the project (see sections 15, 17, 18 and 18A of the NR Act).

9. Section 7 of the NR Act also defines the terms *biodiversity* and *biodiversity project*. *Biodiversity* means the variability among living organisms from all sources (including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part). This includes diversity within species and between species, and diversity of ecosystems. A *biodiversity project* means a project, carried out in a particular area, that is designed to enhance or protect biodiversity in native species (whether the effect on biodiversity occurs within or outside the area). As noted above, this could include projects for species, habitat or ecosystem management, restoration, regeneration, rehabilitation, remediation and habitat augmentation.
10. The Register is established by Part 15 of the NR Act and sets out details of each registered biodiversity project.
11. Once a biodiversity project has met the conditions and requirements outlined in the NR Act and is registered, the person will be able to apply for a tradeable biodiversity certificate and participate in the Nature Repair Market.
12. Subsection 11(2) of the NR Act provides that an application may be made under subsection 11(1) only on or after a day determined by the Minister by legislative instrument.
13. Section 5 of the Determination provides for the purposes of subsection 11(2) of the NR Act, applications may be made on or after 1 March 2025.
14. This section has the effect of determining the day that applications for the registration of biodiversity projects to participate in the Nature Repair Market open.

**Statement of Compatibility with Human Rights**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

*Nature Repair (Applications for Approval of Registration of Biodiversity Project)  
Determination 2025*

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of Legislative Instrument**

The *Nature Repair Act 2023* (NR Act) establishes the framework for a voluntary national market (the Nature Repair Market) to deliver improved biodiversity outcomes. Eligible landholders who undertake projects that enhance or protect biodiversity in native species will be able to receive a tradeable certificate (a biodiversity certificate) that will be tracked through a national register. The Nature Repair Market is intended to facilitate private investment in biodiversity, including where carbon storage projects have biodiversity co-benefits.

The NR Act provides that the Nature Repair Market is primarily administered by the Clean Energy Regulator (the Regulator).

The NR Act is supported by legislative instruments in the form of rules, biodiversity assessment instruments, and methodology determinations. These instruments contain the operational detail necessary for the establishment and operation of the Nature Repair Market.

The purpose of the *Nature Repair (Applications for Approval of Registration of Biodiversity Project) Determination 2025* (the Determination) is to provide that an application for approval of registration of a biodiversity project on the national register may be made on or after 1 March 2025. The Determination has the effect of determining the day that applications for the registration of biodiversity projects to participate in the Nature Repair Market open.

**Human Rights Implications**

The Determination does not engage with any of the applicable rights or freedoms.

**Conclusion**

The Determination is compatible with human rights as it does not raise any human rights issues.