

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for the Environment and Water

*Nature Repair Act 2023*

*Nature Repair (Biodiversity Assessment) Instrument 2025*

### **Purpose**

The purpose of the *Nature Repair (Biodiversity Assessment) Instrument 2025* (the BAI) is to provide a nationally consistent framework to describe and measure biodiversity outcomes. This is an important policy goal for the design of the *Nature Repair Act 2023* (NR Act). Biodiversity does not have a recognised single unit like carbon. The Nature Repair Market will provide a standard for how to describe and measure biodiversity, so that benefits from different kinds of projects can be compared. This will help investors to understand how a project meets their needs and motivations for investing.

The BAI establishes an overarching, evidence-based standard that all methodology determinations need to meet. Methodology determinations, in turn, set requirements for projects wanting to register and be issued biodiversity certificates under the NR Act. The BAI includes a consistent way for projects in the market to describe biodiversity, using a standard set of project characteristics. It helps methodology determinations to consistently describe how these characteristics change, in a way that is appropriate to the project. The BAI also sets a framework for how projects measure and assess biodiversity and how it changes over time. Taken together, the requirements the BAI sets for methodology determinations will ensure appropriate consistency in methodology determinations. The BAI will also assist methodology determinations to meet the biodiversity integrity standards in section 57 of the NR Act.

### **Legislative authority**

The BAI is made under subsection 58(1) of the NR Act.

Section 58 of the NR Act allows the Minister, by legislative instrument, to prescribe requirements that methodology determinations must comply with (subsection 58(1)). An instrument made for the purposes of subsection 58(1) is known as a *biodiversity assessment instrument* (subsection 58(2)).

Subsection 58(3) of the NR Act makes it clear that a biodiversity assessment instrument may prescribe requirements for methodology determinations relating to:

- the measurement or assessment of biodiversity;
- the measurement or assessment of the enhancement of biodiversity; or
- the measurement or assessment of the protection of biodiversity.

These are non-exhaustive examples of potential requirements.

Subsection 58(4) has the effect that a biodiversity assessment instrument may prescribe requirements that apply to all methodology determinations, or just to a specified class of methodology determinations.

## Background

The NR Act establishes the framework for a voluntary national market to deliver improved biodiversity outcomes. Eligible landholders and land managers 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 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:

- promotes investment in long-term enhancement and protection of biodiversity in native species in Australia (including its external territories) – on land or waters;
- creates a nationally consistent framework to describe and measure biodiversity outcomes;
- enables biodiversity certificates describing biodiversity projects to be created, purchased, transferred, claimed, used and publicly tracked. Under the Nature Repair Market scheme, each project can be issued one certificate. Consistent, verifiable and publicly available information on projects and certificates will allow purchasers to make informed decisions;
- requires project proponents to monitor and report on their project, including the biodiversity outcome;
- encourages participation in the market by all persons, including Aboriginal persons and Torres Strait Islanders in culturally appropriate ways;
- ensures that native title holders have the final say on whether, and what kind of, biodiversity projects are carried out on or in native title areas. This promotes the engagement and cooperation of Aboriginal persons and Torres Strait Islanders in the enhancement or protection of biodiversity in native species in Australia;
- establishes project assurance and compliance systems to provide certainty to the market, including providing appropriate and effective integrity measures to ensure the scheme only rewards genuine and verifiable biodiversity protection or enhancement. Certificates are only issued for biodiversity protection or enhancement that would not normally have occurred and, therefore, provides a genuine environmental benefit;
- establishes the Nature Repair Committee (the Committee). The Committee consists of independent experts whose functions include advising and providing recommendations to the Minister on the development of methodology determinations and biodiversity assessment instruments;

- establishes a public register of all registered biodiversity projects and certificates to allow for tracking of project progress and citizen oversight.

The Nature Repair Market scheme allows for market innovation and enables new issues to be addressed as the market evolves. The framework recognises that landholders and land managers have different circumstances, interests and aspirations, and encourages participation and increased supply.

The NR Act allows the Minister, by legislative instrument, to make methodology determinations (see section 45 of the NR Act). Each methodology determination will cover a particular kind of biodiversity project. It will set requirements for how that kind of project is to be implemented, including the obligations applying to the person responsible for the project (the project proponent) under the NR Act.

Methodology determinations are a key integrity measure because they are intended to ensure that the projects registered under the NR Act are managed and implemented in a way that results in genuine and verifiable biodiversity protection or enhancement. They set the requirements for measuring, and reporting of, the state and change in biodiversity, by providing the evidence the Regulator needs to make decisions. In turn, this means that certificates are only issued for a genuine environmental benefit that would be unlikely to occur in the absence of the project.

All methodology determinations need to comply with the biodiversity integrity standards outlined in section 57 of the NR Act. Methodology determinations also need to comply with any applicable biodiversity assessment instruments made by the Minister under section 58 of the NR Act.

### **Impact and Effect**

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

The BAI sets requirements that all methodology determinations must comply with. This includes:

- requiring methodology determinations to include conditions on registration that require the project proponent of a biodiversity project to:
  - appropriately engage with relevant Aboriginal and Torres Strait Islander persons in the design and implementation of the project, including obtaining appropriate consent;
  - assess the project area at the start of the project, including to understand the history, the starting ecosystem condition state and the reasonably expected effects of climate change;
  - assess the project against either specified counterfactual scenarios, or against counterfactual scenarios established by the project proponent consistent with requirements in the BAI;
  - identify and describe the reference ecosystems for the project area or, where relevant, for each activity area;

- identify and describe how a set of ‘standard variable biodiversity project characteristics’ apply, or do not apply, to the project, which include:
  - **ecosystem condition:** enhancing the quality of the ecosystem;
  - **impact of threats:** removing or reducing the impact of threats to biodiversity in native species;
  - **commitment to protection:** enhancing the protection biodiversity in native species in the project area;
  - **threatened species:** improving the capability of the project area to support threatened species; and
  - **culturally significant entities:** protect or enhance culturally significant aspects of the project area.
- determine indicators, starting and forecast values for each such indicators and where applicable, the forecast change in the indicators, for each relevant variable biodiversity project characteristic for the project – to allow change in these characteristics to be measured and assessed over the course of the project;
- determine relevant starting scores and forecast scores for each variable biodiversity project characteristic, except for culturally significant entities.
- requiring methodology determinations to set requirements for how projects will identify and describe the standard variable biodiversity characteristics, including:
  - that all projects must assess ecosystem condition, consistent with the requirements of the methodology determination; and
  - either:
    - determining that the impact of threats, commitment to protection and threatened species biodiversity project characteristics are not relevant to the methodology determination; or
    - requiring projects to assess the impact of threats, commitment to protection and threatened species biodiversity project characteristics, consistent with the requirements of the methodology determination; and
  - either requiring all project proponents, or enabling project proponents that choose to, to nominate a culturally significant entity that will be protected or enhanced by the project, consistent with the consent for the use of Indigenous knowledge and values from the relevant Aboriginal persons or Torres Strait Islanders.

- requiring methodology determinations to include conditions on issuing a biodiversity certificate so that a certificate cannot be issued unless the Regulator is satisfied that:
  - the threshold values for each indicator for each relevant variable biodiversity project characteristic has been met; and
  - where relevant, the project has been implemented in accordance with the consent obtained from relevant Aboriginal persons or Torres Strait Islanders;
- requiring methodology determinations to require certain information about the assessment of change in variable biodiversity project characteristics to be included on the project's Register entry and in each biodiversity project report;
- requiring methodology determinations to include certain monitoring requirements relating to the assessment of change in the relevant variable biodiversity project characteristics;
- requiring methodology determinations to include certain project plan requirements relating to the assessment of change in the relevant variable biodiversity project characteristics;
- requiring methodology determinations to provide a process for the nomination of, and assessment of change in, culturally significant entities. This process must include obtaining appropriate consents from, and appropriate verification of outcomes by, the relevant Aboriginal persons or Torres Strait Islanders;
- allowing methodology determinations to specify additional variable biodiversity project characteristics that project proponents would need to measure, and assess the change in, as a result of the project activities;

These requirements are intended to ensure appropriate consistency in how methodology determinations under the NR Act deal with the measurement and assessment of biodiversity in native species. The set of standard biodiversity project characteristics will enable consistent descriptions of the nature and scope of the benefits generated by a project.

Changes in relevant variable biodiversity project characteristics as a result of a biodiversity project are used to assess progress towards the biodiversity outcome for the project. For this reason, these requirements will also provide transparency in how the Regulator will assess whether the project is sufficiently progressed to have resulted in, or be likely to result in, the biodiversity outcome for the project. This assessment is required under the NR Act to issue a biodiversity certificate for the project.

The consistent, comparable information generated by projects and made available on the register can be used by buyers and others to compare Nature Repair market projects under different methodology determinations. Investors can use this information to judge which aspects of a project are most important to them.

The BAI sets out the parameters and scope for standardised and consistent biodiversity assessment by methodology determinations, where consistency is meaningful and appropriate. Beyond these

parameters the instrument is intentionally flexible to allow for innovation, market evolution and to take advantage of improving environmental information and data resources, infrastructure and technologies.

### **Pre-conditions to making the BAI**

Subsection 59(1) of the NR Act requires that, in deciding whether to make a biodiversity assessment instrument, the Minister:

- must have regard to any advice that the Nature Repair Committee (the Committee) has given to the Minister under subsection 64(2) of the NR Act in relation to the making of the instrument; and
- may have regard to such other matters (if any) as the Minister considers relevant.

Subsection 59(2) of the NR Act requires that, before making a biodiversity assessment instrument, the Minister must request the Committee to advise the Minister about whether the Minister should make the instrument.

Subsection 59(3) of the NR Act relevantly provides that the Minister must not make a biodiversity assessment instrument unless:

- the Committee has given the Minister advice in relation to the making of the instrument; and
- that advice includes a statement to the effect that the Committee is satisfied that the instrument:
  - is an appropriate means of achieving consistency of methodology determinations; and
  - would assist in ensuring that methodology determinations comply with the biodiversity integrity standards.

The Minister complied with these requirements before making the BAI.

In particular:

- the Minister sought advice from the Committee about whether to make the BAI; and
- the Committee complied with the requirements for providing advice on whether to make the BAI, as set out in sections 64 and 65 of the NR Act;
- the Committee provided advice to the Minister in relation to making the BAI;
- the Committee's advice includes a statement to the effect that the Committee is satisfied that the BAI:
  - is an appropriate means of achieving consistency of methodology determinations; and

- would assist in ensuring that methodology determinations comply with the biodiversity integrity standards;

- the Minister had regard to the Committee's advice in deciding whether to make the BAI.

The NR Act does not specify any other conditions that need to be met before the BAI can be made.

## **Consultation**

The Department of Climate Change, Energy, the Environment and Water (the Department) has undertaken extensive consultation on the NR Act, including on the provisions relevant to the BAI.

Key consultation points were:

- Consultation on the design of the Nature Repair Market in late 2022;
- Consultation on an exposure draft of the Nature Repair Bill in early 2023.

Across the first two consultation processes, the Department received more than 400 written submissions, and undertook many targeted engagement and consultation discussions with landholders, First Nations groups and representatives, conservation organisations, industry participants and others.

There has also been broad consultation on the specific design of the BAI. The Committee published a detailed outline of the proposed Biodiversity Assessment Instrument on the Department's website on 1 October 2024 inviting public submissions by 30 October 2024. Committee members also considered other stakeholder feedback on the BAI, including after participating in a series of targeted consultations with key stakeholder groups.

39 submissions were received on the Committee's consultation on the detailed outline of the proposed Biodiversity Assessment Instrument. Submissions were received from a wide range of stakeholders including First Nations groups, environmental non-government organisations, and participants in existing environmental markets.

The Nature Repair Committee considered all submissions in preparing their advice to the Minister on whether to make the BAI. The submission feedback was also considered during the legislative drafting process as part of refining and clarifying the intent and detail of the instrument, and ensuring the instrument is practically implementable.

## **Details and operation**

Details of the BAI are set out in [Attachment A](#).

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

## **Other matters**

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

The BAI 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 (Biodiversity Assessment) Instrument 2025***

**Part 1 – Preliminary**

Section 1 – Name

1. Section 1 provides that the name of the instrument is the *Nature Repair (Biodiversity Assessment) Instrument 2025* (the BAI).

Section 2 – Commencement

2. Section 2 provides that the BAI commences on the day after the instrument is registered on the Federal Register of Legislation.
3. The note below the table 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 BAI is made under subsection 58(1) of the *Nature Repair Act 2023* (NR Act).

Section 4 – Definitions

6. Section 4 defines key terms used in the BAI.
7. Some key definitions used in the BAI relate to the concept of biodiversity project characteristics. A *biodiversity project characteristic*, of a biodiversity project, is an aspect of a project that that can be measured or reported to either provide information relating to the project or the status of biodiversity in native species in the project area, or to assess and describe the level of protection or enhancement to biodiversity in native species as a result of the activities of the project. A biodiversity project characteristic could include biotic, abiotic, legal, governance and cultural properties and functions relevant to describing and assessing the biodiversity outcome for the project.
8. There are two kinds of biodiversity project characteristics for a project: fixed biodiversity project characteristics and variable biodiversity project characteristics.
9. The term *fixed biodiversity project characteristics*, for a project, is defined in section 4 as the biodiversity project characteristics for the project that will not change as a result of the activities of the project. The BAI only deals with one fixed biodiversity project



characteristic for a project – the reference ecosystems of the project area or, where relevant, each activity area. Section 10 includes requirements for methodology determinations to identify and describe this fixed biodiversity project characteristic. However, section 10 also allows for methodology determinations to specify, and set requirements in relation to, additional fixed biodiversity project characteristics that are relevant to the particular methodology determination.

10. In contrast, the term *variable biodiversity project characteristics*, for a project, is defined in section 4 as meaning the biodiversity project characteristics for the project that are not fixed biodiversity project characteristics for the project. In other words, the variable biodiversity project characteristics, of a project, are those biodiversity project characteristics of the project that are subject to change as a result of the project activities. This BAI sets out six variable biodiversity project characteristics that can be used to assess the progress of a project towards the biodiversity outcome for the project, the first five of which are standardised across methodology determinations. These are:
- a. ecosystem condition – all projects are required to measure, and assess the change in, this variable biodiversity project characteristic as a result of the project activities (see sections 11 and 12);
  - b. the removal or reduction of the impact of threats to biodiversity in native species – this variable biodiversity project characteristic will only apply to a project if it is relevant to the methodology determination that covers the project (see sections 11 and 13);
  - c. the commitment to protection of biodiversity in native species in the project area – this variable biodiversity project characteristic will only apply to a project if it is relevant to the methodology determination that covers the project (see sections 11 and 14);
  - d. the capability of the project area to support threatened species – this variable biodiversity project characteristic will only apply to a project if it is relevant to the methodology determination that covers the project (see sections 11 and 15);
  - e. culturally significant entities – project proponents will be able to nominate to measure, and assess the change in, a culturally significant entity, with appropriate engagement and consent from relevant Aboriginal persons or Torres Strait Islanders for the project area (see sections 11 and 16);
  - f. other variable biodiversity project characteristics – methodology determinations will be able to specify additional variable biodiversity project characteristics that project proponents of projects covered by the particular methodology determination would need to measure, and assess the change in, as a result of the project activities (see sections 11 and 17).

11. These standard fixed and variable biodiversity project characteristics will provide a structured and consistent way to describe the different types of biodiversity benefits that the project is intended to deliver. Buyers can use this information to understand how comprehensive the method and the project are. Having information on a range of benefits allows project proponents to tell a story of how the project will improve biodiversity.
12. Changes in relevant variable biodiversity project characteristics as a result of a biodiversity project are used to assess progress towards the biodiversity outcome for the project.
13. Section 4 also contains key definitions relating to how projects interact with Aboriginal persons and Torres Strait Islanders and their knowledge.
14. A project is *subject to Indigenous land interests* if the project area is or includes any of the following:
  - a. a native title area;
  - b. land rights land;
  - c. land that is subject to an Indigenous land use agreement;
  - d. an area of land in relation to which a claimant application (within the meaning of the *Native Title Act 1993*) has been made but not yet determined.
15. This term is relevant to the mandatory requirements for engagement in section 6 of the BAI; methodology determinations are required to include conditions on registration that require that, where the project area is subject to Indigenous land interests, the project proponent must demonstrate they have engaged appropriately with the relevant Indigenous representatives for the project area in relation to the design and implementation of the project. The term *relevant Indigenous representatives*, for a project area, is defined as:
  - a. 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 – the registered native title body corporate for the native title area; or
  - b. if the project area is or includes a native title area and there is no registered native title body corporate for the native title area – the persons, or group of persons, who hold the common or group rights comprising the native title in relation to the native title area; or
  - c. if the project area is or includes an area of land in relation to which a claimant application (within the meaning of the *Native Title Act 1993*) has been made but not yet determined—the native title claim group (within the meaning of that Act); or

- d. if the project area is or includes land rights land—the Aboriginal land council that holds an eligible interest in the land; or
  - e. if the project area is or include an area that is subject to an Indigenous land use agreement—a person who is a party to the agreement.
16. The BAI also contains requirements for methodology determinations relating to voluntary engagement with relevant Aboriginal persons or Torres Strait Islanders. Methodology determinations are required to include conditions on registration, and on issuing a biodiversity certificate, for a project that are directed at ensuring that any use of Indigenous knowledge, values or data has appropriate consent and attribution from relevant Aboriginal persons or Torres Strait Islanders. The term *relevant Aboriginal persons or Torres Strait Islanders*, for a project area, means the Aboriginal persons or Torres Strait Islanders who have a demonstrated connection to the land or waters on or in which the project area is located. This term is broader than *relevant Indigenous representatives* (though it includes such persons) as voluntary engagement with Indigenous knowledge, values and data is not restricted to projects that are subject to Indigenous land interests.
17. Another aspect of voluntary engagement with relevant Aboriginal persons or Torres Strait Islanders involves the process for assessing the change in a culturally significant entity that is relevant to the project. This is an optional process where project proponents, subject to appropriate consent from the relevant Aboriginal persons or Torres Strait Islanders for the project area, can nominate to protect or enhance a culturally significant entity that is relevant to the project.
18. Where this nomination is made, the culturally significant entity will be a variable biodiversity project characteristic for the project. A *culturally significant entity* is defined as a thing, place, matter or process that is of cultural significance to Aboriginal persons or Torres Strait Islanders. A culturally significant entity can only be nominated by a project proponent if it is relevant to the project. A culturally significant entity is *relevant to a biodiversity project* if the enhancement or protection of the culturally significant entity will contribute to achieving the biodiversity outcome for the project.
19. The concept of a ‘culturally significant entity’ encompasses a broad range of features and values of cultural significance to Aboriginal persons or Torres Strait Islanders, as determined by the relevant Aboriginal persons and Torres Strait Islanders for the project area. ‘Culturally significant entities’ is intended to include tangible things such as species, ecological communities in landscapes and seascapes, scar trees, rock formations, water resources and natural resources (for example rock art sites, ochre deposits, and wetlands). It also includes intangible things like songlines and totems, and the value of sites and places. This definition may be broader than some existing applications of ‘culturally significant entities’ in recent Australian policy-focused research, where it has been applied to species and ecological communities in landscapes and seascapes.

20. Section 4 also defines *threatened species* as meaning a species or ecological community that is categorised as threatened (however described) under Commonwealth, State or Territory legislation. This is relevant to the variable biodiversity project characteristic of the capability of the project area to support threatened species. For the avoidance of doubt, this includes the taxonomic units of species, subspecies, varieties and distinct populations of those listed species.

## **Part 2 – Application of this instrument**

### Section 5 – Application of this instrument

21. Section 5 provides that the BAI applies to all methodology determinations.
22. This means that all methodology determinations made under section 45 of the NR Act will need to comply with the requirements of the BAI, in addition to the requirements of the NR Act.

## **Part 3 – Requirements relating to methodology determinations**

### Section 6 – Indigenous knowledge or values relating to biodiversity

23. Section 6 contains requirements for methodology determinations relating to Indigenous knowledges, values and data.
24. The overarching policy intent of section 6 is to ensure project proponents appropriately engage with, and obtain appropriate consents from, relevant Aboriginal persons or Torres Strait Islanders in relation to the design and implementation of project where:
  - a. the project area is subject to Indigenous land interests; or
  - b. the project proponent wishes to use Indigenous knowledge, values or data in relation to the design or implementation of the project.
25. This, in turn, is intended to ensure that relevant Aboriginal persons or Torres Strait Islanders have the opportunity to participate in, and contribute to the design of, such projects, while maintaining ownership and control over how Indigenous knowledge, values and data are used.
26. Relevant Aboriginal persons and Torres Strait Islanders can choose how much they are engaged regarding the project design and implementation. They are not obliged to engage with project proponents. Through the requirement to provide knowledge consent, they can choose how their knowledge, values and data are used and shared throughout the life of the project. They can withdraw consent for the use of their knowledge at any time prior to the issuance of a biodiversity certificate for the project.
27. Subsections 6(1) and 6(2) have the effect of prohibiting methodology determinations from including certain requirements that may limit or impact the appropriate use of Indigenous knowledge, values and data.

28. Specifically, subsection 6(1) prohibits a methodology determination from containing any conditions or requirements that would prevent the project proponent from:
  - a. engaging with Aboriginal persons or Torres Strait Islanders on matters relating to biodiversity in native species; or
  - b. using Indigenous knowledge or values, or Indigenous data, relating to enhancing or protecting biodiversity in native species.
29. This requirement is intended to ensure that engagement with Aboriginal persons or Torres Strait Islanders is not prevented or limited, so that projects can be designed in a culturally informed manner, subject to the agreement of the relevant Aboriginal persons or Torres Strait Islanders. This includes both culturally informed project design and to nominating a culturally significant entity that is relevant to the project. Any use of Indigenous knowledge and values require appropriate engagement and consent, consistent with the requirements in subsections 6(3), 6(4) and 6(5).
30. Culturally informed project design could relate to several aspects of a project. It may relate to identifying and describing culturally significant entities, and the process for demonstrating and delivering the protection or enhancement to culturally significant entities. It may also relate to other biodiversity project characteristics and more generally to how projects are designed, implemented, managed and reported to minimise cultural harm. This could include avoiding harm to Indigenous significant sites or values in the project area or drawing on Indigenous knowledge in determining the reference ecosystem.
31. Demonstrating culturally informed project design would require evidence to be provided to the Regulator, such as evidence of consent for use of Indigenous knowledge, records of engagement and details of agreements.
32. Examples of culturally informed project design could include:
  - a. use of Indigenous knowledge with consent and in line with the consent from the owner of that knowledge;
  - b. considering proposed monitoring locations to avoid culturally sensitive sites;
  - c. negotiation of Indigenous Cultural Intellectual Property agreements for the use and storage of Indigenous knowledge, and Indigenous data management agreements for data generated as a result of the project. For example, agreements to not take photos of culturally significant sites during monitoring activities, and to not publish specific information relating to a culturally significant characteristic of a project;

- d. the project (or aspects of the project) being designed consistently with an Indigenous-led or co-developed standard or framework, or by a customised process guided by an Indigenous approach. Such approaches could relate to best-practice engagement, identification and monitoring frameworks for place-based cultural values, or approaches for Indigenous-led verification;
  - e. including in the project plan flexibility to adapt and respond to support cultural protocols related to management and monitoring activities, such as delaying access to part of the project area if Country is closed due to cultural matters or obligations;
  - f. developing a forward engagement plan between the proponent and relevant Aboriginal persons and Torres Strait Islanders, planning when contact will occur relating to timing of activities and seeking ongoing consent for the use of Indigenous knowledge, values and data for the duration of the project.
33. Subsection 6(2) prohibits a methodology determination from containing any condition or requirement that would require the publishing or sharing of Indigenous knowledge or values, or Indigenous data, without the appropriate consents from Aboriginal persons or Torres Strait Islanders.
34. This requirement supports the policy intent that Indigenous knowledge, values and data should only be used in a way that is culturally informed, and consistent with the consent of the relevant Aboriginal persons or Torres Strait Islanders.
35. *Indigenous data* is defined in section 4 as data or other information, in any format or medium, that is:
- a. about or may affect Aboriginal persons or Torres Strait Islanders, either individually or collectively; or
  - b. generated as a result of using Indigenous knowledge or values.
36. Subsections 6(3) and 6(4) contain mandatory conditions on registration for methodology determinations relating to Indigenous engagement and the use of Indigenous knowledge, values and data.
37. Subsection 6(3) deals with mandatory engagement requirements. Methodology determinations are required to include a condition to the effect that, if the project area for a biodiversity project is subject to Indigenous land interests, the project can only be registered if the project proponent has demonstrated that they have engaged appropriately with the relevant Indigenous representatives for the project area in relation to the design and implementation of the project, including how Indigenous knowledge or values, or Indigenous data, relating to enhancing or protecting biodiversity in native species has been and is proposed to be used in a culturally appropriate way.

38. Both *subject to Indigenous land interests* and *relevant Indigenous representatives* are defined in section 4 of the BAI (see above).
39. The purpose of this provision is to ensure that where there is a legal interest in the project area by one or more Indigenous groups or communities, it is mandatory for project proponents to demonstrate that they have engaged appropriately with those groups or communities in relation to the design and implementation of the project. This engagement can be informed by available guidance.
40. What constitutes ‘appropriate engagement’ may differ, depending on the preferences of the relevant Indigenous representatives. As noted above, where the relevant Indigenous representatives wish to be involved in the design or implementation of the project, or where the project proponent wishes to use Indigenous knowledge or values, or Indigenous data, in the design of their project, appropriate engagement could involve significant and ongoing consultation, and obtaining consent or agreement relating to particular aspects of the project design.
41. Evidence of such engagement and results of discussions could be in the form of benefit sharing agreements, Indigenous data management agreements, knowledge sharing agreements, Indigenous Cultural Intellectual Property agreements and engagement plans outlining the forward project milestones and times when the proponent and the relevant Indigenous representatives agree to engage again.
42. Conversely, where the relevant Indigenous representatives do not wish to be involved, the project proponent would be able to demonstrate they have engaged appropriately by providing evidence that they have approached the relevant Indigenous representatives and provided an opportunity for their involvement, which has not been accepted. The evidence may include information about the scope and nature of the engagement undertaken, and how time and information were provided to allow for customary decision-making processes and informed decision-making.
43. Where there are Indigenous land interests in the project area, but the relevant Indigenous representative chooses not to engage in relation to the interaction with Indigenous knowledge, values and data, the proponent may continue with the project (though must still get consent for any use of Indigenous knowledge, values and data in the project design and implementation). What is important is that the relevant Indigenous representatives are provided the opportunity to contribute their knowledge and values to the design or implementation of the project in a way that reflects their wishes and traditions.
44. It should also be noted that where a person who is a relevant Indigenous representative chooses not to engage with the project proponent prior to registration of the project, but wishes to re-engage with the project proponent during the course of the project, it would be considered appropriate for the project proponent to respond by engaging with the relevant Indigenous representative on aspects of project design and implementation that interact with Indigenous knowledge, values or data.

45. Engagement and consent relating to the use of Indigenous knowledge, values or data should be distinguished from the consents required under the NR Act for the project proponent to register, and to carry out the project, if the project area includes a native title area. If the latter consent is not obtained, the project cannot be registered under the NR Act.
46. Subsection 6(4) relates to voluntary engagement with Aboriginal persons or Torres Strait Islanders.
47. Culturally appropriate engagement with relevant Aboriginal persons or Torres Strait Islanders should be undertaken as early as possible for proponents who wish to include Indigenous knowledge, value and data in their project, undertake culturally informed project design, or nominate a culturally significant entity that is relevant to the project.
48. For proponents to engage appropriately with the relevant Aboriginal persons or Torres Strait Islanders, they must engage in a way that acknowledges and respects the customs of those people. The proponent must respect Indigenous ownership of their knowledge and only use and store that knowledge in accordance with the consent and permission of the relevant Aboriginal persons or Torres Strait Islanders.
49. The nature of this consent, or permission, to use their knowledge and values is determined by the relevant Aboriginal persons or Torres Strait Islanders. They can choose the type of knowledge, values and data that they share, how it is used to inform and implement the project, what information is provided to the Regulator, and what goes on the public register. Once a relationship and understanding has been established between the proponent and the relevant Aboriginal persons or Torres Strait Islanders, the process of culturally informed project design can start.
50. Methodology determinations will be required to include a condition on registration that applies to a biodiversity project if:
  - a. the project includes, or is informed by, Indigenous knowledge or values, or Indigenous data, in relation to the project's design or implementation; and
  - b. the knowledge, values or data were informed by engagement with Aboriginal persons or Torres Strait Islanders.
51. The condition must be to the effect that such projects can only be registered if the project proponent:
  - a. provides evidence that they have obtained the appropriate attribution for, and consent for the use of, the knowledge, values or data; and
  - b. provides evidence that culturally appropriate approaches are being used for the collection, interpretation, use, recording and governance of that knowledge or those values; and



- c. provides information relating to how the project design and implementation includes or is informed by the knowledge, values or data.
52. The purpose of this condition is to ensure that, if a project proponent chooses to use Indigenous knowledge, values or data in the design or implementation of their project, they are required to do so in a culturally appropriate way, including obtaining appropriate consent and attributions. This includes the storage and protection of that knowledge or those values.
  53. This condition will apply to the use of Indigenous knowledge, values or data arising out of engagement that is required under subsection 6(3), or that is undertaken voluntarily.
  54. The nature and form of the consent provided, and how this is evidenced, will depend on the cultural governance arrangements and practices of the relevant Aboriginal persons and Torres Strait Islanders. Evidence will need to be consistent with guidance or aligned with best-practice, Indigenous-led approaches to ensure that appropriate processes are followed, and standards for evidence and transparency are met, consistent with the wishes of the relevant Aboriginal persons and Torres Strait Islanders.
  55. Subsection 6(5) contains a mandatory condition on issuing a biodiversity certificate for a biodiversity project where:
    - a. the project includes, or is informed by, Indigenous knowledge or values, or Indigenous data, in relation to the project's design or implementation; and
    - b. the knowledge, values or data were informed by engagement with Aboriginal persons or Torres Strait Islanders.
  56. For such projects, methodology determinations must include a condition to the effect that a biodiversity certificate can only be issued if the project proponent demonstrates that they have implemented the project consistently with the consent for the use of the knowledge, values or data provided by the Aboriginal persons or Torres Strait Islanders.
  57. The purpose of this requirement is to ensure that projects are, post-registration, implemented in a culturally appropriate way, consistent with any consent provided by the relevant Aboriginal persons or Torres Strait Islanders. Failure to do so would mean that a biodiversity certificate could not be issued for the project under the NR Act.

#### Section 7 – Climate change considerations

58. Section 7 of the BAI contains requirements for methodology determinations relating to climate change considerations.
59. Given that a registered biodiversity project will be operating for a minimum of 25 years, it is imperative that project proponents are required to consider the potential effects of climate change on the likelihood of the biodiversity outcome for the project being met,

and that projects are designed in a way that, to the extent possible, takes account of and manages the projected risks to the project relating to climate change.

60. Methodology determinations may assess the risks of climate change and address them in the requirements and conditions they set for projects. Examples include excluding certain areas from eligibility, limiting the forecast outcomes for certain areas, or enabling flexibility in planting lists to account for a changing climate.
61. Where climate change-related conditions and requirements are embedded in the methodology determination, projects will meet such requirements by being consistent with the methodology determination. However, there is the potential for residual climate risks to apply to the project area. The transparent requirements in the BAI for methodology determinations to require project proponents to consider climate change at the project level will support market confidence, as it should reduce climate-related risks to the project's biodiversity outcome, where those risks are foreseeable and mitigable.
62. Subsection 7(1) has the effect that a methodology determination is required to include a condition on registration to the effect that a project can only be registered if the project proponent for the project has both:
  - a. identified those parts of the project area (if any) that, based on one or more projections, may be vulnerable to the reasonably expected effects of climate change in a way that could affect the likelihood of the biodiversity outcome for the project being achieved; and
  - b. demonstrated, based on evidence, how the project proponent plans to reduce the risk of the biodiversity outcome for the project not being achieved as a result of the reasonably expected effects of climate change, particularly in relation to the parts of the project area (if any) that have been identified as vulnerable to those effects.
63. This requirement will ensure that a biodiversity project will only be able to be registered if the project proponent designs, and proposes to implement, the project in a way that appropriately takes account of the reasonably expected effects of climate change over the expected duration of the project. This will increase the likelihood that the biodiversity outcome for the project will be achieved during the project's permanence period.
64. Examples of where reasonably expected effects of climate change may have impacts on achieving the biodiversity outcome for the project include where the project area includes areas subject to coastal inundation, and where the ecosystems and species are located in areas on the edge of their 'climate envelope' - the climate where a species currently lives.

65. Subsection 7(2) provides that, if a methodology determination requires that there must be a project plan for a registered biodiversity project that is covered by the methodology determination, the methodology determination must also require the project plan to address, based on evidence, how the project proponent intends to reduce the risk of the biodiversity outcome for the project not being met as a result of reasonably expected climate change effects, particularly in relation to the parts of the project area (if any) that have been identified as vulnerable to those effects.
66. For projects that are required to have a project plan, this requirement will increase the likelihood that the design and implementation of the project will be done in a way that takes proper account of, and manages, the risks relating to risks relating to the reasonably expected changes in climate.
67. This will, in turn, increase the likelihood of the biodiversity outcome for the project being achieved, which will result in better environmental outcomes for biodiversity in native species.
68. Where a biodiversity project is not required, by the methodology determination that covers the project, to have a project plan, the methodology determination will need to provide an alternative means for the project proponent to be able to demonstrate they have met the condition on registration set out in subsection 7(1). For instance, the methodology determination may require information demonstrating that this condition has been met to be included as part of the application for registration.

#### Section 8 – Measuring change in biodiversity – starting state assessment of the project area

69. Section 8 contains requirements for methodology determinations relating to the starting state assessment of the project area.
70. Subsection 8(1) provides that methodology determinations are required to include a condition on registration to the effect that a biodiversity project can only be registered if the project proponent has:
  - a. undertaken an assessment of the project area for the project as it exists immediately before the start of the project (a starting state assessment); and
  - b. if the project area is subject to Indigenous land interests and the methodology determination requires the starting state assessment to include a field survey – demonstrated that they have engaged appropriately with the relevant Indigenous representatives for the project area when planning the field survey.
71. The methodology determination must require the starting state assessment to include an assessment of the historic drivers of change associated with biodiversity in native species in the project area (paragraph 8(2)(a)).
72. The methodology determination must also set out:

- a. whether there are particular kinds of information that must inform the starting state assessment and if so, what kinds of information (paragraphs 8(1)(b) and (c)); and
  - b. whether the starting state assessment must include a field survey (paragraph 8(1)(d)); and
  - c. any other requirements that apply to the starting state assessment (paragraph 8(1)(e)).
73. It is intended that the starting state assessment will generally underpin the design of the project, as well as provide the critical data needed to comply with the requirements in the BAI, and the methodology determination, relating to fixed and variable biodiversity project characteristics.
74. For example, the starting state assessment is intended to be the mechanism by which the project proponent obtains the information and data needed to be able to:
- a. ensure the project area meets the eligibility requirements in the Act and the applicable methodology determination;
  - b. divide the project area into activity areas (where relevant);
  - c. identify the appropriate scope and nature of activities for the project area;
  - d. plan where the project activities are to be carried out;
  - e. identify and describe the variable biodiversity project characteristics that are relevant to the project;
  - f. assess the starting ecosystem condition state for the project area or, where relevant, for each activity area;
  - g. determine the starting and forecast values for each indicator for each relevant variable biodiversity project characteristic (such as ecosystem condition);
  - h. assess the risk to the biodiversity outcome posed by the impact of threats;
  - i. assess the risk posed to the project by the reasonably expected effects of climate change, including identifying any areas particularly vulnerable to such risks;
  - j. understand the likelihood of threatened species or ecological communities occurring in the project area;
  - k. plan any management actions that will be required to address any risks to the biodiversity outcome being achieved;

- l. identify if there are any legal encumbrances within the project area, such as sites of cultural heritage, covenants or other legal interests; or
  - m. engage with relevant Aboriginal persons or Torres Strait Islanders on whether there are culturally sensitive areas within the project area, or on how Indigenous knowledge, values or data could contribute to the project.
75. A starting state assessment will generally include a field survey, which is an assessment of the project area undertaken by visiting the site. Where this is the case, and the project area includes land that is subject to Indigenous land interests, the project proponent will be required to engage appropriately with the relevant Indigenous representatives when planning the field survey. This is to ensure the field survey is designed and implemented in a culturally appropriate manner. It could include discussing the proposed stratification of project areas and the proposed location of monitoring sites – which may help prevent overlap with culturally sensitive places and enable flexibility in relation to cultural protocols and culturally appropriate timing for site access.
76. However, the concept of the starting state assessment is broader than the field survey; the project proponent may, as part of the starting state assessment, seek information and data from other sources such as remote (desktop) surveys (including remotely sensed data), historical sources (including other persons) or from direct engagement with groups such as relevant Aboriginal and Torres Strait Islander communities.
77. Appropriate engagement may be demonstrated by providing evidence of the scope and nature of the engagement undertaken, and how time and information were provided to allow for customary decision-making processes and informed decision-making by the relevant Indigenous representatives.
78. The assessment of historic drivers of change provides information on what contributed to the current status of the project area, which can help ensure project activities are appropriate to the project area. Examples of historic drivers of change related to biodiversity in native species include previous land use and land management practices, changes to water or fire regimes, cultural management activities, and the threats, pressures and drivers that contributed to the change on the site.
79. Methodology determinations will generally have the flexibility to impose requirements for the starting state assessment that are appropriate for the particular kind of project covered by the methodology determination; this allows the assessment to be tailored and made fit for purpose for different kinds of projects and environments. To align with market expectations, methodology determinations may require more comprehensive starting state assessments where the biodiversity outcome for the project is more targeted – for example, where the biodiversity outcome is directed at benefiting specific threatened species.

#### Section 9 – Measuring change in biodiversity – specifying or establishing counterfactual scenarios

80. Section 9 contains requirements for methodology determinations relating to counterfactual scenarios. The requirements to establish counterfactual scenarios for a project are intended to support a transparent approach to assessing change due to project activities.
81. A *counterfactual scenario*, for a biodiversity project, is a scenario describing what is likely to, or would have, happened in the absence of the project (see section 4). Counterfactual scenarios are important in the measurement or assessment of change in variable biodiversity project characteristics because they affect the degree of change that can be attributed to the project activities.
82. For instance, where the counterfactual scenario for the project is static, all the measured change in the relevant variable biodiversity project characteristics can be considered due to the project. An example of a static counterfactual scenario is where, in the absence of the project, the ecosystem condition of the project area would remain unchanged.
83. In contrast, where the counterfactual scenario for the project is not static (for example, where it is declining or increasing), the measured change in the relevant variable biodiversity project characteristics needs to be compared against the change that is assumed to have happened without the project. The difference between the change in the counterfactual scenario and the forecast value for the relevant variable biodiversity project characteristic is the forecast change that can be considered due to the project. For example, where there is an increasing counterfactual (such as ‘in the absence of the project, the ecosystem condition of the project area would improve, but more slowly’), not all the measured change in variable biodiversity project characteristics can be considered to be due to the project. Conversely, where there is a declining counterfactual scenario (such as ‘in the absence of the project, the ecosystem condition of the project area would decrease over time’), the measured change in variable biodiversity project characteristics will not represent the entirety of the change that is due to the project.
84. The intention is that a methodology determination will either specify the counterfactual scenarios for projects covered by that methodology determination, or will specify a process for the project proponent to establish the counterfactual scenario for their project. Which option a particular methodology determination takes in this respect will depend on a number of factors including, but not limited, to the kind of biodiversity project that is covered by the methodology determination.
85. Subsection 9(1) deals with the situation where a methodology determination specifies the counterfactual scenarios that apply to biodiversity projects covered by that methodology determination. Where this is the case, and the specified counterfactual scenario is not a static counterfactual scenario, the methodology determination will be required to include a condition on registration to the effect that a biodiversity project can only be registered if the project proponent has demonstrated that they have assessed the forecast change in the variable biodiversity project characteristics of the project

against the specified counterfactual scenarios. This may be by reference to indicators if the specified counterfactual is at the indicator level.

86. In contrast, subsection 9(2) deals with the situation where the methodology determination does not specify the counterfactual scenarios that apply to biodiversity projects covered by that methodology determination. Where this is the case, the methodology determination must contain a condition on registration to the effect that a biodiversity project can only be registered if the project proponent has demonstrated that:
- a. they have met the requirements of the methodology determination for establishing counterfactual scenarios; and
  - b. where the established counterfactual scenarios are not static counterfactual scenarios – they have assessed the forecast change in the variable biodiversity project characteristics of the project against the established counterfactual scenarios. This may be by reference to indicators if the specified counterfactual is at the indicator level.
87. Where the methodology determination does not specify the counterfactual scenarios that apply to biodiversity projects covered by that methodology determination, the methodology determination must also specify any processes that must be undertaken, or requirements that must be met, to establish counterfactual scenarios for a biodiversity project covered by the methodology determination. This includes:
- a. any assumptions that must be used; and
  - b. any limitations or other parameters that must apply; and
  - c. any evidence that must be provided to support the establishment of the counterfactual scenarios; and
  - d. whether counterfactual scenarios are required for the variable biodiversity project characteristics for the project or for the indicators of those characteristics, or for both.
88. These requirements will ensure that, where the project proponent needs to establish counterfactual scenarios for their project, there will be clear processes for them to follow which will, in turn, ensure that counterfactual scenarios are dealt with under the methodology determination in a transparent, consistent, and scientifically accurate manner.
89. Subsections 9(3) and (4) contain requirements that only apply where the counterfactual scenario for the project is not static (that is, where it is increasing or decreasing):

- a. under subsection 9(3), where a methodology determination requires a project plan be prepared for a project covered by that methodology determination, the methodology determination must also require that the project plan address how the project proponent intends to assess the change in the variable biodiversity project characteristics for the project against the counterfactual scenarios for the project;
  - b. under subsection 9(4), methodology determinations must include a condition to the effect that a biodiversity certificate can only be issued for a project if the project proponent demonstrates that they have assessed the change in the variable biodiversity project characteristics for the project against the counterfactual scenarios for the project.
90. Including these additional requirements where the counterfactual scenario for a project is not static is intended to emphasise the importance of measuring the degree of actual change in the variable biodiversity project characteristics that can be considered due to the project activities. This will be relevant to the project's value on the Nature Repair market.
91. Subsection 9(5) provides that a methodology determination must require that a brief description of the counterfactual scenarios for a registered biodiversity project that is covered by the methodology determination must be included in the entry in the Register for the project.
92. The intent is that the brief description provides clear, simple information about the counterfactual that is easy to find. For example, whether the assumption is that the system will decline, stay the same or improve over time in the absence of the project, based on evidence. This will assist in ensuring that there is appropriate transparency available on a key assumption that underpins the assessment of the change in the variable biodiversity project characteristics that can be considered due to the project.

Section 10 – Measuring change in biodiversity – identifying fixed biodiversity project characteristics

93. Section 10 contains requirements for methodology determinations relating to fixed biodiversity project characteristics.
94. As noted above, a *fixed biodiversity project characteristic*, for a project, means a biodiversity project characteristic for the project that will not change as a result of the activities carried out in the project area for the purposes of the project (see section 4).
95. The BAI deals with two kinds of fixed biodiversity project characteristics:
- a. the reference ecosystem for the project area or, where relevant, each activity area; and
  - b. any other fixed biodiversity project characteristics specified by the methodology determination.



96. Subsection 10(1) has the effect that all methodology determinations must include a condition on registration to the effect that a biodiversity project can only be registered if the project proponent has identified and described the following fixed biodiversity project characteristics:
- a. if the methodology determination does not require that a biodiversity project proposed to be covered by the methodology determination be divided into activity areas – the reference ecosystems for the project area; and
  - b. if the methodology determination requires that a biodiversity project proposed to be covered by the methodology determination be divided into activity areas – the reference ecosystems for each of the proposed activity areas; and
  - c. any other fixed biodiversity project characteristics specified in the methodology determination.
97. Put another way, where a methodology determination does not specify additional fixed biodiversity project characteristics, the methodology determination will need to require, as a condition on registration, that project proponents identify and describe the reference ecosystem or reference ecosystems that are identified for the project area or, where relevant, each activity area.
98. The reference ecosystem for a project area or activity area represents the ecosystem that is appropriate for that project area or activity area in its undegraded state, or in a state that can maintain the highest level of ecological integrity over ecological timeframes. Quantitative information is drawn from the reference ecosystem to inform the choice of indicators and their benchmark values, and to assess ecosystem condition.
99. The BAI does not limit the approach to identifying reference ecosystems. Rather, it sets requirements for an evidence-based and transparent approach to enable appropriate approaches for projects with different ecosystems, objectives and histories. Reference ecosystems are used to establish benchmark values, where the benchmark is what you would expect the value of the indicator to be in the reference ecosystem.
100. The benchmark values may describe the ecosystem type in the natural, unmodified or historical (pre-industrialisation) condition. Alternatively, the benchmark values may describe a ‘best on offer’ example of the ecosystem type existing today, or of an ecosystem as it would be sustainable under future climate change scenarios for the region. In some cases, the benchmark values may describe an engineered ecosystem, where the project objective is to engineer an ecosystem different to historic references, with the appropriate evidence and justification provided.
101. Reference ecosystems provide the framework for assessing ecosystem condition, inform assessments of scarcity or representativeness, and may inform assessment of other variable biodiversity project characteristics. Information on the reference ecosystem will

help market investors understand attributes of the project that may be relevant to their interests.

102. The intention is that the present state of the project ecosystem is compared with the state of the reference ecosystem to establish ecosystem condition as departure from (or similarity to) reference values for a chosen set of indicators (see sections 11 and 12). The change in these indicators is then measured over the course of the project to determine the change in the ecosystem as a result of the project activities.
103. Subsections 10(2) and 10(3) have the combined effect that the condition on registration would also need to require the project proponent to:
  - a. provide justification for the reference ecosystems identified for the project area or activity area (as the case may be), including by providing any available evidence of the historic ecosystems for the project area as part of that justification; and
  - b. identify and describe the reference ecosystems in a way that is consistent with:
    - i. the global ecosystem typology or classification specified in the methodology determination; and
    - ii. the national ecosystem typology or classification specified in the methodology determination.
104. An example of an international ecosystem typology or classification is Level 3 (Ecosystem Functional Group) of the IUCN Global Ecosystem Typology. Examples of national ecosystem typologies or classifications include: the National Vegetation Identification System (a national ecosystem classification system), the Ramsar Classification System for Wetland Type, and the Interim Australian National Aquatic Ecosystem (ANAE) Classification Framework. Alternatively, the methodology determination may choose a classification system that is specific to the method, such as using the Seemap Australia benthic habitat classification scheme to describe Australian marine ecosystems.
105. The purpose of requiring the methodology determination to specify both a global and national ecosystem typology or classification by which the reference ecosystem must be identified and described consistently is to enable market participants and other stakeholders to align the project with global or international reporting and disclosure frameworks. The use of standardised descriptions using relevant classifications supports comparison between projects.
106. Subsection 10(4) provides that a methodology determination must require that a brief description of the fixed biodiversity project characteristics for a registered biodiversity project that is covered by the methodology determination to be included in the entry in the Register for the project.

Section 11 – Measuring change in biodiversity – identifying variable biodiversity project characteristics

107. Section 11 contains requirements for methodology determinations relating to variable biodiversity project characteristics. Changes in relevant variable biodiversity project characteristics as a result of a biodiversity project are used to assess progress towards the biodiversity outcome for the project.
108. As noted above, the BAI sets out six variable biodiversity project characteristics that can be used to measure the progress of a project towards the biodiversity outcome for the project. Five of these characteristics are standard across all methodology determinations, while the sixth is optional and method-specific. The intent of the characteristics is to describe change due to the project in a comparable way, addressing several different aspects of biodiversity.
109. The six variable biodiversity project characteristics are:
- a. ecosystem condition – all projects are required to measure, and assess the change in, this variable biodiversity project characteristic as a result of the project activities (see sections 11 and 12);
  - b. the removal or reduction of the impact of threats to biodiversity in native species – this variable biodiversity project characteristic will only apply to a project if it is relevant to the methodology determination that covers the project (see sections 11 and 13);
  - c. the commitment to protection of biodiversity in native species in the project area – this variable biodiversity project characteristic will only apply to a project if it is relevant to the methodology determination that covers the project (see sections 11 and 14);
  - d. the capability of the project area to support threatened species – this variable biodiversity project characteristic will only apply to a project if it is relevant to the methodology determination that covers the project (see sections 11 and 15);
  - e. culturally significant entities – project proponents will be able to nominate to identify, measure and assess the change in, a culturally significant entity that is relevant to the project following appropriate engagement and consent from relevant Aboriginal persons or Torres Strait Islanders for the project area (see sections 11 and 16);
  - f. other variable biodiversity project characteristics – methodology determinations will be able to specify additional variable biodiversity project characteristics that project proponents would need to measure, and assess the change in, as a result of the project activities (see sections 11 and 17).

110. The five standard, variable biodiversity project characteristics were selected based on expert input about what aspects are important to assess. They draw from other approaches to biodiversity assessment. The chosen characteristics also reflect feedback from potential market participants and what factors may be considered important to different buyers.
111. Each characteristic reflects a different aspect of a biodiversity project. The characteristics may reflect the change due to different activities, or types of activities. For example, activities that are targeted at reducing the impacts of a specific threat may have positive outcomes for biodiversity in the project area, but may not lead to change in ecosystem condition that could be measured in a practical, cost-effective way. Assessing this positive change through a different characteristic enables this effort to be recognised. Conversely, the characteristics are not designed or intended to be completely discrete. A single activity may lead to change in multiple biodiversity project characteristics.
112. The requirements for the standard variable biodiversity characteristics differ. In summary, the effect of section 11 (see below) is that methodology determinations must set the following requirements for the biodiversity project characteristics:
- a. all projects must assess ecosystem condition;
  - b. all projects have the option to assess culturally significant entities;
  - c. for the impact of threats, commitment to protection and threatened species characteristics, projects are only required to assess the characteristic if it is relevant to the methodology determination; if not, the methodology determination must provide that the characteristic is ‘not applicable’ to the project.
113. Subsection 11(1) has the effect that methodology determinations must include a condition on registration to the effect that a project can only be registered if the project proponent has identified and described:
- a. the ecosystem condition of the project area or each activity area (as relevant); and
  - b. if the methodology determination specifies any additional variable biodiversity project characteristics that are specific to that methodology determination – those additional variable biodiversity project characteristics.
114. Subsection 11(1) applies to all methodology determinations. This is because ecosystem condition, as a variable biodiversity project characteristic, will apply to all projects. Similarly, all methodology determinations will be able to specify any additional (method-specific) variable biodiversity project characteristics.

115. Additional requirements for methodology determinations relating to ecosystem condition are set out in section 12. Additional requirements for method-specific variable biodiversity project characteristics are set out in section 17.
116. Subsections 11(2) to (4) contain requirements for methodology determinations relating to the following variable biodiversity project characteristics:
- a. the removal or reduction of the impacts of threats to biodiversity in native species in the project area;
  - b. the commitment of protection to biodiversity in native species in the project area;
  - c. the capability of the project area to support threatened species.
117. Subsection 11(2) only applies to methodology determinations where one or more of these variable biodiversity project characteristics is relevant to the kind of project covered by the methodology determination. Where this is the case, the methodology determination must include a condition on registration to the effect that a project can only be registered if the project proponent has identified and described the relevant variable biodiversity project characteristic. In some cases, the methodology determination may allow a particular project proponent to describe the characteristics as ‘not applicable’ to their project (see sections 13 to 15).
118. It is intended that these variable biodiversity project characteristics will generally be relevant to a kind of project covered by a methodology determination where the project activities would be likely to result in a genuine and practically measurable change in the characteristic.
119. Where subsection 11(2) does apply to a methodology determination, sections 13 to 15 contain additional requirements that will also apply to that methodology determination, depending on which variable biodiversity project characteristic is relevant.
120. Subsection 11(3) has the effect that, where a variable biodiversity project characteristic mentioned in subsection 11(2) is not relevant to the kind of project covered by a methodology determination, the methodology determination must instead require the entry in the Register for projects covered by that methodology determination to include a statement that the particular variable biodiversity project characteristic is not applicable to the project. This is intended to provide transparency on the Register relating to the ways the project is enhancing and protecting biodiversity, and how change is being assessed in each project.
121. Subsection 11(4) has the effect that, where the variable biodiversity project characteristic that is commitment to protection of biodiversity in native species in the project area is not relevant to the kind of project covered by a methodology determination, the methodology determination must instead require that the entry in the Register for projects covered by that methodology determination include information on

the level of commitment to protection of biodiversity in native species in the project area. The purpose of this provision is to require the Register to provide information on the level of commitment to protection in the project area (because it may be relevant to the project's value), even though that level may not be changed by the project.

122. The intent of subsection 11(4) is to help market participants understand the types of protection in place for biodiversity on the project area. For example, there may already be a commitment in place to protect the project area in perpetuity. A project may not therefore add any additional or further protection benefit through its permanence period, as this commitment (i.e. long-term protection) was already in place. This information will enable potential investors to consider how the value of enhancement to biodiversity in the project area may be strengthened by any commitment to protection already in place.
123. The types of information that could be reported include the duration and nature of any legal protection or security, the land tenure, the extent to which legally permissible activities that could negatively impact biodiversity on the project area (e.g. grazing by feral herbivores, firewood removal) are permitted or prevented, Indigenous rights and interests and the level of Indigenous governance and cultural authority.
124. Subsections 11(5) to 11(8) deal with the variable biodiversity project characteristic that is culturally significant entities. This characteristic provides the opportunity for the project to be designed and described in terms of how it improves the health of Country, considering cultural priorities, values and Indigenous ecological knowledge. It enables a description of the biocultural outcomes or objectives to be delivered by the project based on one or more 'culturally significant entities' which are to be protected or enhanced as part of the project. It is intended that what is a culturally significant entity and how it is to be identified and described will be determined by the relevant Aboriginal persons and Torres Strait Islanders for the project area. It could include tangible things such as species and ecological communities in landscapes and seascapes and, more broadly, rock formations, water resources and natural resources (for example rock art sites, ochre deposits, and wetlands, as well as intangible things like songlines and totems, and the value of sites and places).
125. A methodology determination must either:
  - a. require project proponents to nominate one or more culturally significant entities that are relevant to the project, to be assessed as part of the project; or
  - b. enable project proponents, on a voluntary basis, to nominate one or more culturally significant entities that are relevant to the project, to be assessed as part of the project (subsection 11(5)).
126. As noted above (see section 4), a culturally significant entity is *relevant to a biodiversity project* if the enhancement or protection of the culturally significant entity will contribute to achieving the biodiversity outcome for the project.

127. It is expected that most methodology determinations will enable the voluntary nomination of culturally significant entities, however there may be Indigenous-led methodology determinations that take the former approach. This approach could enable an Indigenous-led methodology determination to set out an appropriate, standard framework for the nomination and description of culturally significant entities aligned with that the activities and intent of the methodology determination. This may make it simpler and easier for project design and implementation to be consistent with that methodology determination.
128. Where a methodology determination requires project proponents to nominate one or more culturally significant entities to be assessed as part of the project, the methodology determination must include a condition on registration to the effect that a project can only be registered if the project proponent has identified and described the nominated culturally significant entities that are relevant to the project (subsection 11(6)).
129. Where the methodology determination enables project proponents to, on a voluntary basis, nominate one or more culturally significant entities to be assessed as part of the project, subsection 11(7) has the effect that the methodology determination must contain both of the following conditions:
- a. a condition that, if a project proponent nominates one or more culturally significant entities that are relevant to the project in the application for approval of registration for their project, the project can only be registered if the project proponent has identified and described the nominated culturally significant entities in accordance with the processes or requirements specified in the methodology determination; and
  - b. a condition that, if a project proponent nominates one or more culturally significant entities that are relevant to the project after their project is registered, a biodiversity certificate can only be issued for the project if the project proponent has identified and described the nominated culturally significant entities in accordance with the processes or requirements specified in the methodology determination.
130. It is intended that the processes and requirements that must be complied with in identifying and describing culturally significant entities will be tailored to ensure that the knowledge, values and traditions of the relevant Aboriginal persons or Torres Strait Islanders are respected. In addition, subsection 11(8) requires that such processes and requirements must include a requirement that the project proponent has obtained appropriate consent from the relevant Aboriginal persons and Torres Strait Islanders for the project area for the use of Indigenous knowledge or values, or Indigenous data, to identify and describe the culturally significant entities that are relevant to the project.
131. The option to nominate a culturally significant entity that is relevant to the project after the project is registered will also ensure there is flexibility for ongoing engagement with the relevant Aboriginal persons or Torres Strait Islanders during the course of the project. This flexibility is intended to enable the relevant Aboriginal persons and Torres Strait Islanders to take the time to understand the opportunity, their rights and the

obligations related to nominating a culturally significant entity, and allow for customary decision-making processes and informed decision-making.

132. Subsections 11(9), 11(10) and 11(11) deal with indicators for variable biodiversity project characteristics, other than culturally significant entities. Indicators are used to assess the change in the variable biodiversity project characteristics over the course of the project.
133. Indicators are defined measures that are used to demonstrate change due to the activities of the project. Indicators may include attributes of vegetation condition, such as tree canopy height, or assessment of habitat for native flora or fauna, such as the number of hollow-bearing trees per hectare. To be useful in practice they must be easy to measure.
134. It is intended that indicators will be tailored for the methodology determination or project. They may include biophysical, chemical, biological, biocultural, administrative or cultural measures, measured remotely or as part of a field survey or audit. They may vary in the scale at which they are applied or in the quality of the underlying data.
135. Indicators are intended to be measurable and verifiable and used primarily by the Regulator. Methodology determinations will establish the approach for aligning the indicators with a project-level score for the relevant variable biodiversity project characteristics, consistent with the requirements of the BAI. This will enable different types of projects with different types of indicators to be compared.
136. The combined effect of subsections 11(9) and 11(10) is that methodology determinations must:
  - a. specify indicators for each relevant variable biodiversity project characteristic in the methodology determination itself, or require project proponents to determine the indicators for each relevant variable biodiversity project characteristic for their project, in accordance with the processes and requirements specified in the methodology determination; and
  - b. specify benchmark values for each indicator, or require project proponents to determine the benchmark values for each indicator, in accordance with the processes and requirements specified in the methodology determination; and
  - c. where the indicator is for ecosystem condition:
    - i. ensure the indicator reflects measures of composition and structure of the reference ecosystems; and
    - ii. consider including indicators that reflect the function of the reference ecosystems; and
    - iii. ensure the benchmark value reflects the reference ecosystems.



137. Put another way, methodology determinations must require projects to demonstrate change in ecosystem condition by measuring changes in the structure and composition of the ecosystem relative to the benchmark. Methodology determinations may also require projects to measure change in ecosystem function. This flexibility is to acknowledge that selecting indicators that reflect change in ecosystem function in the project timeframes may not be feasible. For example, changes in ecosystem function may not be detectable or measurable in a project within a 25-year permanence period. Ecosystem function can also be impractical or less cost-effective to measure, particularly when improving ecosystem condition is not the focus of projects under the methodology determination.
138. Subsection 11(11) clarifies that the requirements in subsection 11(9) do not apply to culturally significant entities. This is because section 16 deals with identifying indicators for culturally significant entities that are to be assessed as part of the project.
139. Subsection 11(12) contains requirements for project plans relating to variable biodiversity project characteristics. Where a methodology determination requires a project plan, the methodology determination must also require the project plan to:
- a. identify and describe the variable biodiversity project characteristics for the project; and
  - b. address how the project proponent intends to assess the changes in the variable biodiversity project characteristics for the project, consistent with any processes or requirements specified in the methodology determination for assessing such change.
140. This will ensure that any proposed approaches relating to the assessment of change in variable biodiversity project characteristics are embedded in the project plan and are able to be considered by the Regulator as part of the application for approval of registration.

#### Section 12 – Assessing change in variable biodiversity project characteristics – ecosystem condition

141. Section 12 contains additional requirements for methodology determinations relating to ecosystem condition. Ecosystem condition is a variable biodiversity project characteristic that will apply to all biodiversity projects under the NR Act.
142. This means the requirements in section 12 apply to all methodology determinations. This will ensure consistency in how changes in ecosystem condition in the project area or activity area (as the case may be) is measured and assessed across methodology determinations which will, in turn, allow more accurate comparison of projects (and their value) on the Nature Repair Market.

143. Some methodology determinations may be focused on changes to other variable biodiversity project characteristics and may not lead to change in ecosystem condition. For example, a methodology determination may focus on protecting the ecosystem on the project area, rather than enhancing the quality of it. Others may focus on delivering benefits for certain species or addressing specific threats. The intent of the five standard variable biodiversity project characteristics is to enable comparison of different types of projects with different objectives. Investors can use this information to judge which aspects of a project are most important to them.
144. Subsections 12(1) and 12(2) have the combined effect of requiring a methodology determination to include a condition on registration to the effect that a biodiversity project proposed to be covered by the methodology determination can only be registered if the project proponent for the project has done all of the following:
- a. demonstrated they have assessed the starting ecosystem condition state for the project area or activity area (as relevant) compared to the identified reference ecosystems for the project area or activity area; and
  - b. determined the starting value of each of the indicators for ecosystem condition for the project area or each activity area (as relevant); and
  - c. determined the forecast value of each of the indicators for ecosystem condition for the project area or each activity area (as relevant) as a result of project activities; and
  - d. where the counterfactual scenario for the project is a not a static counterfactual scenario – determined the forecast change in each of the indicators for ecosystem condition for the project area or each activity area (as relevant) as a result of the project activities, taking into account the counterfactual scenario for the project; and
  - e. determined the starting ecosystem condition score for the project area or each activity area (as relevant); and
  - f. determined the forecast ecosystem condition score for the project area or each activity area (as relevant); and
  - g. where the project area is divided into activity areas – calculated the starting aggregate ecosystem condition score for the project; and
  - h. where the project area is divided into activity areas – calculated the forecast aggregate ecosystem condition score for the project; and
  - i. where the project area is divided into activity areas and the counterfactual scenario for the project is not static – determined the forecast change in the aggregate ecosystem condition score for the project, taking into account the counterfactual scenarios; and

- j. provided evidence that the project is likely to result in the forecast value in each of the indicators and, where applicable, the forecast change in each of the indicators.
145. A score in this context could be a number or rating, or a range of numbers or ratings (see definition of *score* in section 4). The score or rating could be based on qualitative information, such as a rubric, and could be non-continuous.
146. It is expected that when assigning a score, methodology determinations would typically draw on existing approaches used by the Australian and state and territory governments, and in the restoration and conservation sectors. There are several approaches that express ecosystem condition as a single metric by combining different aspects of ecosystem and comparing them against a benchmark within a reference ecosystem. An example of an approach to ecosystem scoring, used by the National Biodiversity Assessment System, is where ecosystem condition scores range from 0.0 (ecosystem completely removed in relation to its reference state) to a maximum of 1.0 (ecosystem in reference condition).
147. The matters in subsections 12(1) and 12(2) are essential to be able to accurately measure and assess the change in ecosystem condition as a result of the project activities, which is an important part of determining whether the biodiversity outcome for the project has been achieved or is likely to be achieved.
- a. the starting ecosystem condition state, the starting values for each indicator, and the starting ecosystem condition score, represent the ecosystem condition in the project area (or each activity area) at the start of the project.
  - b. the forecast values for each indicator, and the forecast ecosystem condition score, represent the target for the ecosystem condition of the project area (or each activity area) as a result of the project. These targets reflect the biodiversity outcome for the project – that is, the protection and enhancement of biodiversity in native species that the project is designed to achieve – at the indicator level.
  - c. The forecast change represents how the indicator is expected to change compared to what is likely to, or would have, happened without the project, reflecting the enhancement due to the project activities. The forecast change in the indicators will only be relevant where the counterfactual scenario for the project is not a static counterfactual.
    - i. This is because, where there is a static counterfactual scenario, the forecast change in an indicator will be the difference between the starting value and the forecast value for the indicator. Where this is the case, no further calculation is needed.
    - ii. In contrast, where the counterfactual scenario for the project is not static (ie, is increasing or declining), the task of assessing change in the ecosystem condition includes determining the difference that the project

would actually make to the ecosystem condition of the project area or activity area, taking into account that the ecosystem condition was already increasing or declining. This is the forecast change in the indicators, taking into account the counterfactual scenario for the project.

- d. The aggregate ecosystem condition score is a single score for the project. For projects with activity areas, the method will need to include an additional process for calculating the aggregate ecosystem condition score. The starting aggregate ecosystem condition score for the project and forecast aggregate ecosystem score for the project provide information to allow comparison of the level of protection or enhancement of biodiversity in native species being provided, compared to other projects. Where the project area is not divided into activity areas, the ecosystem condition score provides the same information as a single score for the project.
  - e. The forecast change in the aggregate ecosystem condition score for the project represents how the aggregate ecosystem score for the project is expected to change compared to what is likely to, or would have, happened without the project, reflecting the enhancement due to the project activities. Consistent with the forecast change in the indicators, the forecast change in the aggregate ecosystem condition score will only be relevant where the counterfactual scenario for the project is not a static counterfactual.
148. The matters in subsections 12(1) and 12(2) must be assessed or determined in accordance with any processes or requirements specified in the methodology determination (see subsection 12(3)). This flexibility allows methodology determinations to tailor how such assessments and values need to be worked out for the particular kind of projects covered by the methodology determination, while maintaining an appropriate level of consistency in how changes to ecosystem condition as a result of the project activities is assessed across different methodology determinations.
149. The combined effect of subsections 12(4) and (5) is that the methodology determination must specify the requirements or processes for calculating the starting ecosystem condition score for an activity area, the forecast ecosystem condition score for an activity area, the starting aggregate ecosystem condition score for the project, the forecast aggregate ecosystem condition score for the project and the forecast change in the aggregate ecosystem condition score (if applicable). This includes (but is not limited to):
- a. any assumptions that must be used; and
  - b. any limitations or other parameters that must apply; and
  - c. the quantitative scoring system that must be used; and

- d. any evidence that must be provided to support the calculations; and
  - e. where the counterfactual scenario for the project is not a static counterfactual scenario – how, the established or specified counterfactual scenarios should be considered.
150. This will ensure appropriate transparency in how these project level scores – which are intended to be used to compare projects (and their values) on the Nature Repair Market – will be calculated.
151. The score is intended to communicate the change in ecosystem condition at a project level. Where relevant and applicable, scoring systems are intended to be a means to communicate complex information in a simple, comparable and digestible way. The BAI sets the parameters for the upper and lower scores so that they can be compared across projects consistent with different methodology determinations.
152. Scoring systems could consider multiple types of indicators and evidence, which may include information from field surveys. They may be directly aligned with change in discrete indicators. Other approaches may be underpinned by models that consider more complex ecological relationships (for example, relationships between species and habitat) where these are well-understood and based on strong science and evidence. The intent is that the parameters for the scoring systems in the BAI are sufficiently flexible to accommodate a range of counterfactual scenarios (for example static, declining and increasing), and enable different ways of drawing on information that is practical and cost-effective to collect.
153. Subsection 12(6) sets requirements for methodology determinations relating to the information on ecosystem condition that must be included in the entry for a project on the Register. This information is:
- a. the starting aggregate ecosystem condition score for the project;
  - b. the forecast aggregate ecosystem condition score for the project;
  - c. the starting ecosystem condition score for each activity area (if relevant);
  - d. the forecast ecosystem condition score for each activity area (if relevant);
  - e. the starting value of each of the indicators for ecosystem condition in the project area or each activity area (as relevant);
  - f. the forecast value of each of the indicators for ecosystem condition in the project area or each activity area (as relevant) as a result of the project activities;
  - g. where applicable (ie where the counterfactual scenarios for the project are not static):

- i. the forecast change in each of the indicators in the project area or each activity area (as relevant) as a result of the project activities; and
    - ii. the forecast change in the aggregate ecosystem condition score for the project, taking into account the counterfactual scenarios either specified in, or established in accordance with, the methodology determination;
  - h. information on progress toward the forecast value of and, where applicable, the forecast change in, each of the indicators at the time each biodiversity project report is prepared.
154. Making this information available on the public Register for each project will ensure transparency in how projects are progressing towards their biodiversity outcome which will, in turn, allowing projects to be meaningfully compared on the Nature Repair Market.
155. Subsection 12(7) contains requirements for biodiversity project reports relating to ecosystem condition. Specifically, subsection 12(7) requires a methodology determination to require that each biodiversity project report for a registered biodiversity project to include information on progress towards:
- a. the forecast value of each of the indicators for ecosystem condition for the project area or each activity area (as the case may be); and
  - b. where applicable – the forecast change in each of the indicators for ecosystem condition for the project area or each activity area (as the case may be).
156. These requirements apply to both category A biodiversity project reports and category B biodiversity project reports and will assist the Regulator in assessing the progress of each registered biodiversity project toward its biodiversity outcome.
157. Subsection 12(8) sets monitoring requirements for methodology determinations relating to ecosystem condition. A methodology determination must require the project proponent to monitor progress towards:
- a. the forecast value of each of the indicators for ecosystem condition for the project area or each activity area (as relevant); and
  - b. where applicable – the forecast change in each of the indicators for ecosystem condition for the project area or each activity area (as relevant),
- in accordance with any processes or requirements specified in the methodology determination.

158. The requirements will ensure that the Regulator is able to accurately assess the progress of each registered biodiversity project toward its biodiversity outcome, while ensuring flexibility for methodology determinations to set monitoring requirements that are specific to, and fit for purpose for, projects covered by the particular methodology determination.

Section 13 – Assessing change in variable biodiversity project characteristics – threats to biodiversity in native species

159. Section 13 contains additional requirements for methodology determinations relating to the variable biodiversity project characteristic of the removal or reduction of the impact of threats to biodiversity in native species in the project area. Addressing these threats would generally require targeted activity and monitoring.
160. Threats are factors potentially or already causing degradation, damage, destruction or increased risks to native biodiversity. Threats can be past (historical, unlikely to return or historical, likely to return), ongoing, and/or likely to occur in the future.
161. This characteristic should assess change due to activities that address threats which are relevant and appropriate to the project area. Evidence from the starting state assessment should be used to demonstrate that there is a clear link between the planned activities to address the impact of threats, and positive outcomes for targeted biodiversity in the project area.
162. Where this variable biodiversity project characteristic is relevant to a methodology determination, the methodology determination will be required to comply with the requirements in section 13 (subsection 13(1)).
163. This will ensure consistency in how the removal or reduction of the impact of threats to biodiversity in native species in the project area is measured and assessed across methodology determinations which will, in turn, allow more accurate comparison of projects (and their value) on the Nature Repair Market.
164. The combined effect of subsections 13(2) and 13(3) is to require a methodology determination to include a condition on registration to the effect that a biodiversity project can only be registered if the project proponent has done the following:
- a. assessed the level of risk posed to biodiversity in native species in the project area by each threat that is specified in the methodology determination by identifying the historic, current and future impacts of the specified threats in the project area; and
  - b. based on that assessment, either:
    - i. has stated that the removal or reduction of the impact of threats to biodiversity in native species in the project area is not applicable to the project – but only if this is permitted by the methodology determination; or

- ii. has done all of the following:
  - I. identified how the specified threats are relevant to the project area and how they will be managed through the project activities to reduce the impacts of those threats on biodiversity in native species in the project area; and
  - II. determined the starting value of each of the indicators for this variable biodiversity project characteristic;
  - III. determined the forecast value of each of the indicators as a result of project activities;
  - IV. where the counterfactual scenario for the project is a not a static counterfactual scenario – determined the forecast change in each of the indicators as a result of the project activities, taking into account the counterfactual scenario for the project;
  - V. calculated or otherwise assessed the starting threat score for the project; and
  - VI. calculated or otherwise assessed the forecast threat score for the project; and
  - VII. where the counterfactual scenario for the project is not static – determined the forecast change in the threat score for the project, taking into account the counterfactual scenarios; and
  - VIII. provided evidence that the project is likely to result in the forecast value in each of the indicators and, where applicable, the forecast change in each of the indicators.

165. A *score* in this context could be a number or rating, or a range of numbers or ratings (see definition of score in section 4). The score or rating could be based on qualitative information, such as a rubric, and could be non-continuous.

166. It is expected that when assigning a score, methodology determinations would typically draw on existing approaches used by the Australian and state and territory governments, and in the restoration and conservation sectors.

167. In relation to the ‘specified threats’ (i.e. threats within the scope of the methodology determination), the policy intent is that the methodology determination will establish a process to ensure these are relevant and appropriate for the project area. This will mean that projects are focused on reducing the impacts of identified threats that are having, or may have in the future, a genuine impact on biodiversity in native species in the project



area. This provides confidence that the project activities are leading to meaningful change that wouldn't have happened without the project. For example, a methodology determination may exclude activities that address threats:

- a. that are understood to have effectively benign impacts (for example, a weed species that is not a transformer weed); or
- b. where it is understood that their removal will not lead to a genuine impact or improvement to biodiversity in the project area; or
- c. that are well understood and are known to have ceased in the project area.

168. A single indicator could relate to a single threat, or to multiple threats. For example, if there are several predator species (cats, foxes), each species might be a different threat that requires a different management activity. However, an indicator could be the abundance of a prey species of both cats and foxes. In some cases where there is suitable evidence of the link between threats and the outcomes from reducing their abundance or intensity, it may be appropriate for an indicator to be the 'number of threats' or 'intensity of threats'.

169. The matters in subsections 13(2) and 13(3) are essential to accurately measuring and assessing the change in this variable biodiversity project characteristics as a result of the project activities, which will contribute to determining whether the biodiversity outcome for the project has been achieved or is likely to be achieved.

- a. The starting values for each indicator represent the status of the level of risk posed by threats to biodiversity in native species in the project area at the start of the project.
- b. The forecast values for each indicator represent the target for this variable biodiversity project characteristic (that is, the target level of reduction or removal of the impact of threats to biodiversity in native species) as a result of the activities of the project. These targets reflect the biodiversity outcome for the project – ie the protection and enhancement of biodiversity in native species that the project is designed to achieve – at the indicator level.
- c. The forecast change in the indicators will only be relevant where the counterfactual scenario for the project is not a static counterfactual.
  - i. This is because, where there is a static counterfactual (such as 'in the absence of the project, level of risk posed to biodiversity in native species would remain unchanged'), the forecast change in an indicator will just be the difference between the starting value and the forecast value for the indicator. Where this is the case, no further calculation is needed.

- ii. In contrast, where the counterfactual scenario for the project is not static (ie, is increasing or declining), the task of assessing change in the level of risk posed to biodiversity in native species includes determining the difference that the project would actually make to the removal or reduction of the impact of threats to biodiversity in natives species in the project area, taking into account that the level of risk posed by such threats was already increasing or declining. This is the forecast change in the indicators, taking into account the counterfactual scenario for the project.
- d. The starting threat score for the project and forecast threat score for the project would allow comparison of the project with other projects (ie at the project level) in a measurable and verifiable way. It will provide a single, project-level score to support an understanding of the magnitude of the reduction or removal of threats that the project is forecast to deliver, and how this compares to other projects.
  - e. The forecast change in the threat score for the project represents how the threat score for the project is expected to change compared to what is likely to, or would have, happened without the project, reflecting the enhancement due to the project activities. Consistent with the forecast change in the indicators, the forecast change in the threat score will only be relevant where the counterfactual scenario for the project is not a static counterfactual.
170. Subsection 13(4) make it clear that the matters in subsections 13(2) and (3) need to be identified, determined or calculated in accordance with any processes or requirements specified in the methodology determination.
171. This provides flexibility to methodology determinations to tailor how such values and scores need to be worked out for the particular kind of projects covered by the methodology determination, while maintaining an appropriate level of consistency in how change to this variable biodiversity project characteristic is assessed across relevant methodology determinations.
172. Paragraph 13(5)(a) requires the methodology determination to specify whether a project proponent can decide that the removal or reduction of the impact of threats to biodiversity in native species in the project area is not applicable to their project and, if so, in what circumstances.
173. The flexibility for the methodology determination to permit a particular project to not assess the variable biodiversity project characteristic that is removal or reduction of the impacts of threats to biodiversity in native species is intended to recognise that there may be some circumstances where, because of the particular location or circumstance of the project, the project would not be likely to result in a genuine and measurable change in the level of risk posed to biodiversity in native species by the particular threats specified in the methodology determination. For instance, where there is no evidence

that a particular specified threat is occurring, or is likely to be occurring, in the project area or surrounding landscape.

174. Paragraph 13(5)(b) requires the methodology determination to specify the requirements or processes for calculating the starting threat score for the project, the forecast threat score for the project and the forecast change in the threat score for the project (if applicable). This includes (but is not limited to):
  - a. any assumptions that must be used; and
  - b. any limitations or other parameters that must apply; and
  - c. the quantitative scoring system that must be used; and
  - d. any evidence that must be provided to support the calculations; and
  - e. where the counterfactual scenario for the project is not a static counterfactual scenario – how the established or specified counterfactual scenarios should be considered.
175. Subsection 13(5) clarifies that the quantitative scoring system specified must involve:
  - a. the lowest score representing a situation in which the specified threats will, or are likely to, result in significant ongoing impacts to biodiversity in native species in the project area; and
  - b. the highest score representing a situation in which the impacts of the specified threats in the project area are, so far as they are reasonably in the control of the project proponent, effectively absent.
176. Setting mandatory requirements for how the starting threat score and the forecast threat score must be calculated or otherwise assessed will ensure appropriate transparency in how these project level scores – which are intended to be used to compare projects (and their values) on the Nature Repair Market – will be worked out.
177. The threat score is intended to communicate the change in this characteristic at a project level. Where relevant and applicable, scoring systems are intended to be a means to communicate complex information in a simple, comparable and digestible way. The BAI sets the parameters for the upper and lower scores so that they can be compared across projects consistent with different methodology determinations.
178. Scoring systems could consider multiple types of indicators and evidence, which may include information from field surveys. They may be directly aligned with change in discrete indicators. Other approaches may be underpinned by models that consider more complex ecological relationships where these are well-understood and based on strong science and evidence. The intent is that the parameters for the scoring systems in the

BAI are sufficiently flexible to accommodate a range of counterfactual scenarios (for example static, declining and increasing), and enable different ways of drawing on information that is practical and cost-effective to collect.

179. Subsection 13(7) contain requirements for the Register relating to the variable biodiversity project characteristic of removal or reduction of the impact of threats to biodiversity in native species in the project area. Where this variable biodiversity project characteristic is relevant to a methodology determination, the methodology determination will need to require the following be included in the Register entry for a registered biodiversity project:
- a. if applicable—that the removal or reduction of the impact of threats to biodiversity in native species in the project area is not applicable to the project; or
  - b. all of the following:
    - i. the starting threat score or range for the project;
    - ii. the forecast threat score or range for the project;
    - iii. where applicable (ie where the counterfactual scenario for the project is not static):
      - I. the forecast change in the threat score for the project, taking into account the counterfactual scenarios that are specified in, or established in accordance with, the methodology determination; and
      - II. the forecast change in each of the indicators as a result of the project activities; and
    - iv. the starting value of each of the indicators;
    - v. the forecast value of each of the indicators as a result of the project activities;
    - vi. information on progress towards the forecast value of and, where applicable, the forecast change in, each of the indicators at the time each biodiversity project report is prepared.
180. Making this information available on the public Register for each relevant project will ensure transparency in how projects are progressing towards their biodiversity outcome which will, in turn, allow projects to be meaningfully compared on the Nature Repair Market.

181. Subsection 13(8) contains requirements for biodiversity project reports relating to the variable biodiversity project characteristic that is removal or reduction of the impact of threats to biodiversity in native species in the project area. Where this variable biodiversity project characteristic is applicable to a project, the methodology determination must require each biodiversity project report for a registered biodiversity project covered by the methodology determination to include information on progress towards:
- a. the forecast value of each of the indicators; and
  - b. where applicable – the forecast change in each of the indicators.
182. These requirements apply to both category A biodiversity project reports and category B biodiversity project reports and will assist the Regulator in assessing the progress of each registered biodiversity project toward its biodiversity outcome.
183. Subsection 13(9) contains monitoring requirements relating to relating to the variable biodiversity project characteristic that is removal or reduction of the impact of threats to biodiversity in native species in the project area. Where this variable biodiversity project characteristic is applicable to a project, the methodology determination must require the project proponent to monitor progress towards:
- a. the forecast value of each of the indicators; and
  - b. where applicable – the forecast change in each of the indicators,  
in accordance with any processes or requirements specified in the methodology determination.
184. The requirements will ensure that the Regulator is able to accurately assess the progress of each registered biodiversity project toward its biodiversity outcome, while ensuring flexibility for methodology determinations to set monitoring requirements that are specific to, and fit for purpose for, projects covered by the particular methodology determination.

Section 14 – Assessing change in variable biodiversity project characteristics – commitment to protection of biodiversity in native species

185. Section 14 contains additional requirements for methodology determinations relating to the variable biodiversity project characteristic of commitment to protection of biodiversity in native species in the project area.
186. This characteristic is designed to enable the comparable assessment of the change in the how the biodiversity in the project area is protected as a result of the project.
187. Biodiversity in native species in a project area can be protected from further harm through a range of legal, administrative and management activities. Undertaking a biodiversity project under the NR Act demonstrates a commitment to protection of the

biodiversity in the project area. The permanence period of a project is associated with ongoing obligations. These would generally consist of monitoring activities to ensure that there is no significant reversal in biodiversity outcome and preventing or responding to negative outcomes.

188. A project with a 100-year permanence period would be expected to deliver more change in the commitment to protection if it is in an area with no current legal or administrative protection mechanism. For example, there may already be a commitment in place to protect the project area in perpetuity, such as a conservation covenant. In this case, the project may not add any additional or further protection benefit through its permanence period. However, it may further enhance the quality of the biodiversity on the project area. For market confidence, it is important that the change in protection due to the project is accessible and transparent.
189. Some projects may be in, or on, an area where the ecosystem condition is high. In these areas, a commitment to cease legally permissible activities that could negatively impact biodiversity on the project area (e.g. grazing by introduced herbivores, firewood removal) could enable the high condition to be maintained or improved. Evidence of the continued absence of these activities could be an indicator of an ongoing commitment to protection.
190. Where this variable biodiversity project characteristic is relevant to a methodology determination, the methodology determination will be required to comply with the requirements in section 14 (subsection 14(1)).
191. This will ensure consistency in how the commitment to protection of biodiversity in native species in the project area is measured and assessed across methodology determinations which will, in turn, allow more meaningful comparison of projects (and their value) on the Nature Repair Market.
192. The combined effect of subsections 14(2) and 14(3) is to require a methodology determination to include a condition on registration to the effect that a biodiversity project can only be registered if the project proponent has done the following:
  - a. assessed the level of commitment to protection of biodiversity in native species in the project area; and
  - b. based on that assessment, either:
    - i. has stated that the commitment to protection of biodiversity in native species in the project area is not applicable to the project – but only if this is permitted by the methodology determination; or
    - ii. has done all of the following:

- I. identified how the activities of the project will increase the commitment to protection of biodiversity in native species in the project area; and
- II. determined the starting value of each of the indicators for this variable biodiversity project characteristic; and
- III. determined the forecast value of each of the indicators as a result of the project activities; and
- IV. where the counterfactual scenario for the project is a not a static counterfactual scenario – determined the forecast change in each of the indicators as a result of the project activities, taking into account the counterfactual scenario for the project; and
- V. calculated or otherwise assessed the starting commitment to protection score for the project; and
- VI. calculated or otherwise assessed the forecast commitment to protection score for the project; and
- VII. where the counterfactual scenario for the project is not static – determined the forecast change in the commitment to protection score for the project, taking into account the counterfactual scenarios; and
- VIII. provided evidence that the project is likely to result in the forecast value in each of the indicators and, where applicable, the forecast change in each of the indicators.

193. A *score* in this context could be a number or rating, or a range of numbers or ratings (see definition of score in section 4). The score or rating could be based on qualitative information, such as a rubric, and could be non-continuous.
194. It is expected that when assigning a score, methodology determinations would typically draw on existing approaches used by the Australian and state and territory governments, and in the restoration and conservation sectors.
195. Examples of activities that may increase the commitment to protection include committing to a legal protection or security, preventing legally permissible activities that could negatively impact biodiversity on the project area (for example, grazing by introduced herbivores, firewood removal), putting management arrangements in place, or enhancing First Nations governance and cultural authority.
196. For this characteristic, indicators may be binary. For example, there is or is not a legal protection in place.

197. The matters in subsections 14(2) and (3) are essential for accurately measuring and assessing the change in this variable biodiversity project characteristic as a result of the project activities, which will contribute to determining whether the biodiversity outcome for the project has been achieved or is likely to be achieved.
- a. The starting values for each indicator represent the level of commitment to protection of biodiversity in native species in the project area at the start of the project.
  - b. The forecast values for each indicator represent the target for this variable biodiversity project characteristic (that is, the target level of commitment to protection of biodiversity in native species in the project area) as a result of the activities of project. These targets reflect the biodiversity outcome for the project – ie the protection and enhancement of biodiversity in native species that the project is designed to achieve – at the indicator level.
  - c. The forecast change in the indicators will only be relevant where the counterfactual scenario for the project is not a static counterfactual.
    - i. This is because, where there is a static counterfactual (such as ‘in the absence of the project, the commitment to protection of biodiversity in native species in the project area would remain unchanged’), the forecast change in an indicator will just be the difference between the starting value and the forecast value for the indicator. Where this is the case, no further calculation is needed.
    - ii. In contrast, where the counterfactual scenario for the project is not static (ie, is increasing or declining), the task of assessing change in the level of commitment to protection of biodiversity in native species in the project area includes determining the difference that the project would actually make to this level of commitments in the project area, taking into account that the level of commitment to protection of biodiversity in native species in the project area was already increasing or declining. This is the forecast change in the indicators, taking into account the counterfactual scenario for the project.
  - d. The starting commitment to protection score for the project and forecast commitment to protection score for the project would allow comparison of the project with other projects (ie at the project level) in a measurable and verifiable way. It will provide a single, project-level score to support an understanding of how the commitment to the protection of the biodiversity in native species in the project area is changing due to the project, and how this compares to other projects.



- e. The forecast change in the commitment to protection score for the project represents how the commitment to protection score for the project is expected to change compared to what is likely to, or would have, happened without the project, reflecting the enhancement due to the project activities. Consistent with the forecast change in the indicators, the forecast change in the commitment to protection score will only be relevant where the counterfactual scenario for the project is not a static counterfactual.
198. Information about projects provided through the ‘commitment to protection’ characteristics may be relevant to determining how the project may contribute to national and international commitments. For example, the Australian Government has set a national target to protect and conserve 30% of Australia’s landmass and 30% of Australia’s marine areas by 2030 (the ‘30 by 30’ target). This aligns with Target 3 of the Kunming-Montreal Global Biodiversity Framework.
199. Subsection 14(4) makes it clear that the matters in subsections 14(2) and (3) need to be identified, determined or calculated in accordance with any processes or requirements specified in the methodology determination.
200. This provides flexibility to methodology determinations to tailor how such values and scores need to be worked out for the particular kind of projects covered by the methodology determination, while maintaining an appropriate level of consistency in how change to this variable biodiversity project characteristic is assessed across relevant methodology determinations.
201. Paragraph 14(5)(a) requires the methodology determination to specify whether a project proponent can decide that the level of commitment to protection of biodiversity in native species in the project area is not applicable to their project and, if so, in what circumstances.
202. The flexibility for the methodology determination to permit a particular project to not assess the variable biodiversity project characteristic that is commitment to protection of biodiversity in native species in the project area is intended to recognise that there may be some circumstances where, because of the particular location of the project, the project would not be likely to result in a genuine and measurable change in the level of commitment to protection of biodiversity in native species. For instance, where there is no legal mechanism available in the relevant jurisdiction to increase the commitment to protection.
203. Paragraph 14(5)(b) requires the methodology determination to specify the requirements or processes for calculating the starting commitment to protection score for the project, the forecast commitment to protection score for the project and the forecast change in the commitment to protection score (if applicable). This includes (but is not limited to):
- a. any assumptions that must be used; and

- b. any limitations or other parameters that must apply; and
  - c. the quantitative scoring system that must be used; and
  - d. any evidence that must be provided to support the calculations; and
  - e. where the counterfactual scenario for the project is not a static counterfactual scenario – how the established or specified counterfactual scenarios should be considered.
204. Subsection 14(6) clarifies that the quantitative scoring system specified must involve:
- a. the lowest score representing no commitment to protection of biodiversity in native species in the project area; and
  - b. the highest score representing the highest level of commitment to protection of biodiversity in native species in the project area.
205. Setting requirements for how the starting commitment to protection score and the forecast commitment to protection score must be calculated will ensure appropriate transparency in how these project level scores – which are intended to be used to compare projects (and their values) on the Nature Repair Market – will be worked out.
206. The commitment to protection score is intended to communicate the change in this characteristic at a project level. Where relevant and applicable, scoring systems are intended to be a means to communicate complex information in a simple, comparable and digestible way. The BAI sets the parameters for the upper and lower scores so that they can be compared across projects consistent with different methodology determinations.
207. Scoring systems could consider multiple types of indicators and evidence, which may include information from field surveys. They may be directly aligned with change in discrete indicators. Other approaches may be underpinned by models that consider more complex ecological relationships (for example, relationships between species and habitat) where these are well-understood and based on strong science and evidence. The intent is that the parameters for the scoring systems in the BAI are sufficiently flexible to accommodate a range of counterfactual scenarios (for example static, declining and increasing), and enable different ways of drawing on information that is practical and cost-effective to collect.
208. Subsection 14(7) contain requirements for the Register relating to the variable biodiversity project characteristic of commitment to protection of biodiversity in native species in the project area. Where this variable biodiversity project characteristic is relevant to a methodology determination, the methodology determination will need to require the following to be included in the Register entry for a registered biodiversity project:

- a. if applicable—that commitment to protection of biodiversity in natives species in the project area is not applicable to the project; or
- b. all of the following:
  - i. the starting commitment to protection score for the project; and
  - ii. the forecast commitment to protection score for the project; and
  - iii. where applicable (ie where the counterfactual scenario for the project is not static):
    - I. the forecast change in the commitment to protection score for the project; and
    - II. the forecast change in each of the indicators as a result of the project activities; and
  - iv. the starting value of each of the indicators; and
  - v. the forecast value of each of the indicators as a result of the project activities; and
  - vi. information on progress towards the forecast value of and, where applicable, the forecast change in, each of the indicators at the time each biodiversity project report is prepared.

209. Making this information available on the public Register for each relevant project will ensure transparency in how projects are progressing towards their biodiversity outcome which will, in turn, allowing projects to be meaningfully compared on the Nature Repair Market.

210. Subsection 14(8) contains requirements for biodiversity project reports relating to the variable biodiversity project characteristic that is commitment to protection of biodiversity in native species in the project area. Where this variable biodiversity project characteristic is applicable to a project, the methodology determination must require each biodiversity project report for a registered biodiversity project covered by the methodology determination to include information on progress towards:

- a. the forecast value of each of the indicators; and
- b. where applicable – the forecast change in each of the indicators.

211. These requirements apply to both category A biodiversity project reports and category B biodiversity project reports and will assist the Regulator in assessing the progress of each registered biodiversity project toward its biodiversity outcome.
212. Subsection 14(9) contains monitoring requirements relating to the variable biodiversity project characteristic that is commitment to protection of biodiversity in native species in the project area. Where this variable biodiversity project characteristic is applicable to a project, the methodology determination must require the project proponent to monitor progress towards:
- a. the forecast value of each of the indicators; and
  - b. where applicable – the forecast change in each of the indicators, in accordance with any processes or requirements specified in the methodology determination.
213. The requirements will ensure that the Regulator is able to accurately assess the progress of each registered biodiversity project toward its biodiversity outcome, while ensuring flexibility for methodology determinations to set monitoring requirements that are specific to, and fit for purpose for, projects covered by the particular methodology determination.

Section 15 – Assessing change in variable biodiversity project characteristics – capability of the area to support threatened species

214. Section 15 contains additional requirements for methodology determinations relating to the variable biodiversity project characteristic of capability of the project area to support threatened species.
215. This characteristic focuses on the potential benefits of the project to specific threatened species, or classes of threatened species that would be benefited by the project in a similar way. For species that benefit from general ecosystem management, the benefits captured by this characteristic may be linked to other activities focused on improving ecosystem condition. Other threatened species may only benefit from specifically targeted activities.
216. *Threatened species* is defined in section 4 as a species or ecological community that is categorised as threatened under Commonwealth, State or Territory legislation. The intent is for the methodology determination to specify the threatened species, or the classes of threatened species, that are the focus of the assessment for the projects covered by the methodology determination.
217. Where this variable biodiversity project characteristic is relevant to a methodology determination, the methodology determination will be required to comply with the requirements in section 15 (subsection 15(1)).

218. This will ensure consistency in how the capability of the project area to support threatened species is measured and assessed across methodology determinations which will, in turn, allow more meaningful comparison of projects (and their value) on the Nature Repair Market.
219. The combined effect of subsections 15(2) and 15(3) is to require a methodology determination to include a condition on registration to the effect that a biodiversity project can only be registered if the project proponent has done the following:
- a. assessed the capability of the project area to support threatened species; and
  - b. based on that assessment, either:
    - i. has stated that the capability of the project to support threatened species is not applicable to the project – but only if this is permitted by the methodology determination; or
    - ii. has done all of the following:
      - I. identified the threatened species that are relevant to the project area; and
      - II. identified how the activities of the project will increase the capability of the project area to support threatened species; and
      - III. determined the starting value of each of the indicators for this variable biodiversity project characteristic; and
      - IV. determined the forecast value of each of the indicators as a result of the project activities; and
      - V. where the counterfactual scenario for the project is a not a static counterfactual scenario – determined the forecast change in each of the indicators as a result of the project activities, taking into account the counterfactual scenario for the project; and
      - VI. calculated or otherwise assessed the starting threatened species score for the project; and
      - VII. calculated or otherwise assessed the forecast threatened species score for the project; and
      - VIII. where the counterfactual scenario for the project is not static – determined the forecast change in the threatened species score for the project, taking into account the counterfactual scenarios; and

IX. provided evidence that the project is likely to result in the forecast value in each of the indicators and, where applicable, the forecast change in each of the indicators.

220. A *score* in this context could be a number or rating, or a range of numbers or ratings (see definition of score in section 4). The score or rating could be based on qualitative information, such as a rubric, and could be non-continuous.
221. It is expected that when assigning a score, methodology determinations would typically draw on existing approaches used by the Australian and state and territory governments, and in the restoration and conservation sectors.
222. Activities of the project that will increase the capability of the project area to support threatened species could include those that could enhance the ability of the site to support the species (or group of species), for example, by enhancing its foraging habitat, roosting habitat, breeding habitat, or dispersal habitat. Other such activities could include activities that are directed at reducing threats specific to a threatened species or class of threatened species, or improving functional connectivity within the project area and across the broader landscape.
223. Other factors that may be considered in the scoring and assessment of the change in capability of the project area to support threatened species could include:
- a. the number of threatened species, or classes of threatened species positively impacted by the project;
  - b. the level of evidence that threatened species would be likely to visit or be present at the site over the life of the project (for example, considering if there is appropriate habitat on site, or if there have been recent records of the relevant species in the project area);
  - c. species status under Commonwealth, State or Territory laws;
  - d. The level of evidence available relating to the likely benefits to the threatened species due to the project activities, for example whether the assessment would be of improvements to potential habitat, or of the actual population or visitation by threatened species.
224. The matters in subsections 15(2) and 15(3) are essential for accurately measuring and assessing the change in this variable biodiversity project characteristics as a result of the project activities, which will contribute to determining whether the biodiversity outcome for the project has been achieved or is likely to be achieved.
- a. The starting values for each indicator represent the capability of the project area to support threatened species at the start of the project.

- b. The forecast values for each indicator represent the target for this variable biodiversity project characteristic (that is, the target level of capability of the project area to support threatened species) as a result of the activities of the project. These targets reflect the biodiversity outcome for the project – ie the protection and enhancement of biodiversity in native species that the project is designed to achieve – at the indicator level.
- c. The forecast change in the indicators will only be relevant where the counterfactual scenario for the project is not a static counterfactual.
  - i. This is because, where there is a static counterfactual (such as ‘in the absence of the project, the capability of the project area to support threatened species would remain unchanged’), the forecast change in an indicator will just be the difference between the starting value and the forecast value for the indicator. Where this is the case, no further calculation is needed.
  - ii. In contrast, where the counterfactual scenario for the project is not static (that is, is increasing or declining), the task of assessing change in the level of capability of the project area to support threatened species includes determining the difference that the project would actually make to this capability in the project area, taking into account that the capability of the project area to support threatened species was already increasing or declining. This is the forecast change in the indicators, taking into account the counterfactual scenario for the project.
- d. The starting threatened species score for the project and forecast threatened species score for the project would allow comparison of the project with other projects (that is, at the project level) in a measurable and verifiable way. It will provide a single, project-level score to support an understanding of how the capability of the project area to support threatened species is changing due to the project, and how this compares to other projects.
- e. The forecast change in the threatened species score for the project represents how the threatened species score for the project is expected to change compared to what is likely to, or would have, happened without the project, reflecting the enhancement due to the project activities. Consistent with the forecast change in the indicators, the forecast change in the threatened species score will only be relevant where the counterfactual scenario for the project is not a static counterfactual.

225. Subsections 15(4) makes it clear that the matters in subsection 15(2) and (3) need to be identified, determined or calculated in accordance with any processes or requirements specified in the methodology determination.

226. This provides flexibility to methodology determinations to tailor how such values and scores need to be worked out for the particular kind of projects covered by the methodology determination, while maintaining an appropriate level of consistency in how change to this variable biodiversity project characteristic is assessed across relevant methodology determinations.
227. Paragraph 15(5)(a) requires the methodology determination to specify whether a project proponent can decide that the capability of the project area to support threatened species is not applicable to their project and, if so, in what circumstances.
228. The flexibility for the methodology determination to permit a particular project to not assess the variable biodiversity project characteristic that is capability of the project area to support threatened species is intended to recognise that there may be some circumstances where, because of the particular location of the project, the project would not be likely to result in a genuine and measurable change in the capability of the project area to support threatened species. For instance, where there are no threatened species likely to occur in the project area.
229. Paragraph 15(5)(b) requires the methodology determination to specify the requirements or processes for calculating the starting threatened species score for the project, the forecast threatened species score for the project and the forecast change in the threatened species score (if applicable). This includes (but is not limited to):
- a. any assumptions that must be used; and
  - b. any limitations or other parameters that must apply; and
  - c. the quantitative scoring system that must be used; and
  - d. any evidence that must be provided to support the calculations; and
  - e. where the counterfactual scenario for the project is not a static counterfactual scenario – how the established or specified counterfactual scenarios should be considered.
230. Subsection 15(6) clarifies that the quantitative scoring system specified must involve:
- a. the lowest score representing no capability of the project area to support threatened species; and
  - b. the highest score representing the highest level of capability of the project area to support threatened species.
231. Setting requirements for how the starting threatened species score and the forecast threatened species score must be calculated will ensure appropriate transparency in how



these project level scores – which are intended to be used to compare projects (and their values) on the Nature Repair Market – will be worked out.

232. The threatened species score is intended to communicate the change in this characteristic at a project level. Where relevant and applicable, scoring systems are intended to be a means to communicate complex information in a simple, comparable and digestible way. The BAI sets the parameters for the upper and lower scores so that they can be compared across projects consistent with different methodology determinations.
233. Scoring systems could consider multiple types of indicators and evidence, which may include information from field surveys. They may be directly aligned with change in discrete indicators. Other approaches may be underpinned by models that consider more complex ecological relationships (for example, relationships between species and habitat) where these are well-understood and based on strong science and evidence. The intent is that the parameters for the scoring systems in the BAI are sufficiently flexible to accommodate a range of counterfactual scenarios (for example static, declining and increasing), and enable different ways of drawing on information that is practical and cost-effective to collect.
234. Subsection 15(7) contain requirements for the Register relating to the variable biodiversity project characteristic of capability of the project area to support threatened species. Where this variable biodiversity project characteristic is relevant to a methodology determination, the methodology determination will need to require the following to be included in the Register entry for a registered biodiversity project:
- a. if applicable—that capability of the project area to support threatened species is not applicable to the project; or
  - b. all of the following:
    - i. the starting threatened species score for the project; and
    - ii. the forecast threatened species score for the project; and
    - iii. where applicable (ie where the counterfactual scenario for the project is not static):
      - I. the forecast change in the threatened species score for the project; and
      - II. the forecast change in each of the indicators as a result of the project activities; and
    - iv. the starting value of each of the indicators; and

- v. the forecast value of each of the indicators as a result of the project activities; and
  - vi. information on progress towards the forecast value of and, where applicable, the forecast change in, each of the indicators at the time each biodiversity project report is prepared.
235. Making this information available on the public Register for each project will ensure transparency in how projects are progressing towards their biodiversity outcome which will, in turn, allowing projects to be meaningfully compared on the Nature Repair Market.
236. Subsection 15(8) contains requirements for biodiversity project reports relating to the variable biodiversity project characteristic that is capability of the project area to support threatened species. Where this variable biodiversity project characteristic is applicable to a project, the methodology determination must require each biodiversity project report for a registered biodiversity project covered by the methodology determination to include information on progress towards:
- a. the forecast value of each of the indicators; and
  - b. where applicable – the forecast change in each of the indicators.
237. These requirements apply to both category A biodiversity project reports and category B biodiversity project reports and will assist the Regulator in assessing the progress of each registered biodiversity project toward its biodiversity outcome.
238. Subsection 15(9) contains monitoring requirements relating to relating to the variable biodiversity project characteristic that is capability of the project area to support threatened species. Where this variable biodiversity project characteristic is applicable to a project, the methodology determination must require the project proponent to monitor progress towards:
- a. the forecast value of each of the indicators; and
  - b. where applicable – the forecast change in each of the indicators, in accordance with any processes or requirements specified in the methodology determination.
239. The requirements will ensure that the Regulator is able to accurately assess the progress of each registered biodiversity project toward its biodiversity outcome, while ensuring flexibility for methodology determinations to set monitoring requirements that are specific to, and fit for purpose for, projects covered by the particular methodology determination.

Section 16 – Assessing change in variable biodiversity project characteristics – culturally significant entities

240. Section 16 contains additional requirements for methodology determinations relating to the variable biodiversity project characteristic of culturally significant entities. These requirements will apply where a project proponent has nominated a culturally significant entity that is relevant to the project to be assessed as part of the project (see section 11).
241. This will support consistency in how culturally significant entities are measured and assessed across methodology determinations – which will, in turn, allow more accurate comparison of projects (and their value) on the Nature Repair Market – while ensuring methodology determinations can set appropriate processes and requirements relating to engagement with relevant Aboriginal persons or Torres Strait Islanders that project proponents must comply with.
242. This ensures there is an opportunity for the project to be designed and described in terms of how it improves the health of Country, considering cultural priorities, values and Indigenous ecological knowledge. The ‘culturally significant entities’ are determined by the relevant Aboriginal persons and Torres Strait Islanders for the project area. ‘Culturally significant entities’ is intended to include tangible things such as species, ecological communities in landscapes and seascapes, scar trees, rock formations, water resources and natural resources (for example rock art sites, ochre deposits, and wetlands). It also includes intangible things like songlines and totems, and the value of sites and places. This definition may be broader than some existing applications of ‘culturally significant entities’ in recent Australian policy-focused research, where it has been applied to species and ecological communities in landscapes and seascapes.
243. Subsection 16(1) requires methodology determinations to include a condition on registration to the effect that where the project proponent for a project has nominated a culturally significant entity that is relevant to the project, the project can only be registered if the project proponent has also:
- a. identified the activities of the project that will contribute to change in the culturally significant entity; and
  - b. identified indicators to measure and assess change to the culturally significant entity; and
  - c. determined a process for the culturally appropriate verification of change in the culturally significant entity; and
  - d. determined the starting value of each of the indicators; and
  - e. determined the forecast value of each of the indicators as a result of the activities of the project; and

- f. if the counterfactual scenario for the project is not a static counterfactual scenario – determined the forecast change in each of the indicators as a result of the activities of the project, taking into account the counterfactual scenario for the project; and
  - g. provided culturally appropriate evidence that the project is likely to result in the forecast value of, and (if applicable) the forecast change in, each of the indicators; and
  - h. complied with any other requirements specified in the methodology determination.
244. These matters are essential for accurately measuring and assessing the change in this variable biodiversity project characteristics as a result of the project activities, which will contribute to determining whether the biodiversity outcome for the project has been achieved or is likely to be achieved.
245. The culturally significant entities biodiversity project characteristic differs from those in sections 12, 13, 14, and 15 as the culturally significant entities are always nominated, identified and described at the project level. This means the process to identify and describe indicators for culturally significant entities, and determine the approach for the culturally appropriate verification of change in the culturally significant entities, is not set out in the BAI. The process would be tailored to the needs of the relevant Aboriginal persons and Torres Strait Islanders and could follow an Indigenous-led standard or framework. This flexibility would enable project-specific application to suit different circumstances and cultural priorities or needs. This could include a peer-to-peer First Nations verification framework, an Indigenous developed framework for monitoring cultural and heritage values, or a culturally appropriate identification and verification approach guided by Indigenous research. In addition, unlike the other characteristics, there is not a requirement for a single, project-level score for this characteristic.
246. Subsection 16(2) makes it clear that the matters in subsection 16(1) need to be identified, determined or calculated in accordance with any processes or requirements specified in the methodology determination.
247. This requirement allows the methodology determination to require additional steps, such as appropriate engagement with relevant Aboriginal persons or Torres Strait Islanders before finalising the above matters.
248. For example, consistent with the requirements in section 6, a methodology determination could require that the project proponent demonstrate, with culturally appropriate evidence, that they have done any or all of the following:
- a. identified the relevant Aboriginal persons or Torres Strait Islanders for the project area;

- b. obtained appropriate consent from the relevant Aboriginal persons or Torres Strait Islanders for the project area for the use of Indigenous knowledge or values to identify and describe the culturally significant entity that is relevant to the project;
- c. appropriately engaged with the relevant Aboriginal persons or Torres Strait Islander for the project area in relation to each of the above matters for the culturally significant entity;
- d. identified each of the above matters, for each culturally significant entity, consistently with any requirements of the relevant Aboriginal persons or Torres Strait Islanders for the project area;
- e. obtained agreement from the relevant Aboriginal persons or Torres Strait Islanders for the project area to the proposed culturally appropriate verification process that will be followed to demonstrate the delivery of change to the culturally significant entity;
- f. obtained agreement from the relevant Aboriginal persons or Torres Strait Islanders for the project area on how information relating to the culturally significant entity will be provided to the Regulator and whether it can be included on the Register.

249. This will ensure that the processes for assessing the change in culturally significant entities respects Indigenous knowledge, values and traditions, and the and consent provided for the use of the Indigenous knowledge.

250. Subsection 16(3) requires methodology determinations to include a condition on applying for a biodiversity certificate to the effect that, if a project proponent nominates a culturally significant entity that is relevant to the project after the project is registered, the project proponent can only apply for a biodiversity certificate for the project if they demonstrate that they have complied with the requirements in subsection 16(1). The purpose of this requirement is to ensure that if a culturally significant entity is nominated post registration, the project proponent still needs to follow the same processes and meet the same requirements as if they had nominated the culturally significant entity prior to registration. This will, in turn, help to ensure consistency in how the change in culturally significant entities is measured and assessed, regardless of when the nomination was made.

251. Enabling a culturally significant entity to be nominated after project registration allows more time for the relevant Aboriginal persons and Torres Strait Islanders to understand the opportunities and obligations, and to allow for customary decision-making processes and informed decision-making. This aims to promote the development of trusted relationships between proponents and relevant Aboriginal persons and Torres Strait Islanders to foster collaboration, two-way knowledge sharing and improve biodiversity outcomes of the project.

252. Subsections 16(4) and (5) contain requirements for methodology determination relating to information about culturally significant entities that must be included on the Register.
253. Subsection 16(4) is relevant to projects where the project proponent has nominated a culturally significant entity that is relevant to the project. Methodology determinations must require that, for such projects, the following information is included in the Register entry for the project:
- a. where the relevant Aboriginal persons or Torres Strait Islanders for the project area have consented to such information being included in the Register:
    - i. the culturally significant entity; and
    - ii. the identified indicators for the culturally significant entity; and
    - iii. the starting value for the indicators for the culturally significant entity; and
    - iv. the forecast value for the indicators for the culturally significant entity; and
    - v. if applicable (ie if the counterfactual scenarios for the project are not static) – the forecast change in the indicators for the culturally significant entity; and
    - vi. information on progress of the project toward the forecast value of, and (if applicable) the forecast change in, the indicators for each culturally significant entity at the time each biodiversity project report is prepared, in accordance with any processes or requirements specified in the methodology determination; and
    - vii. whether the progress of the project towards the forecast value of, and (if applicable) the forecast change in, the indicators has been verified by the relevant Aboriginal persons or Torres Strait Islanders for the project area, in accordance with any processes or requirements specified in the methodology determination;
  - b. where the relevant Aboriginal persons or Torres Strait Islanders for the project area have not consented to the above information being included in the Register:
    - i. a statement that there are one or more culturally significant entities that are relevant for the project; and
    - ii. whether the progress of the project towards the forecast value of, and (if applicable) the forecast change in, the indicators has been verified by the relevant Aboriginal persons or Torres Strait Islanders for the project area, in accordance with any processes or requirements specified in the methodology determination.

254. Methodology determinations are also able to specify additional information that must be included in the Register entry for a project.
255. Making this information available on the public Register for each project where culturally significant entities are nominated will ensure transparency in how projects are progressing towards their biodiversity outcome – which will, in turn, allowing projects to be meaningfully compared on the Nature Repair Market – while respecting Indigenous knowledge, values and traditions, and the terms of consent provided for the use of the Indigenous knowledge.
256. Subsection 16(5) is relevant to projects where the project proponent has not nominated a culturally significant entity that is relevant to the project. For such projects, methodology determinations must require that a statement that culturally significant entities are not applicable to the project be included in the entry in the Register for the project.
257. Subsection 16(6) contains requirements for methodology determinations relating to biodiversity project reports for projects where the project proponent has nominated a culturally significant entity that is relevant to the project. For such projects, methodology determinations must require the following information be included in each biodiversity project report for the project:
- a. where the relevant Aboriginal persons or Torres Strait Islanders for the project area have consented to such information being included in the biodiversity project report:
    - i. information on progress of the project toward the forecast value of, and (if applicable) the forecast change in, the indicators for each culturally significant entity at the time each biodiversity project report is prepared, in accordance with any processes or requirements specified in the methodology determination; and
    - ii. a statement as to whether the progress of the project towards the forecast value of, and (if applicable) the forecast change in, the indicators has been verified by the relevant Aboriginal persons or Torres Strait Islanders for the project area, in accordance with any processes or requirements specified in the methodology determination.
  - b. where the relevant Aboriginal persons or Torres Strait Islanders for the project area have not consented to the above information being included in the biodiversity project report – a statement as to whether the progress of the project towards the forecast value of, and (if applicable) the forecast change in, the indicators has been verified by the relevant Aboriginal persons or Torres Strait Islanders for the project area, in accordance with any processes or requirements specified in the methodology determination.

258. These requirements apply to both category A biodiversity project reports and category B biodiversity project reports and will assist the Regulator in assessing the progress of each registered biodiversity project toward its biodiversity outcome, while respecting Indigenous knowledge, values and traditions and the terms of consent provided for the use of the Indigenous knowledge.
259. Subsection 16(7) contains requirements for methodology determinations relating to monitoring for projects where the project proponent has nominated a culturally significant entity that is relevant to the project. For such projects, methodology determinations must require the project proponent to monitor progress towards the forecast value of and, if applicable, the forecast change in, each of the indicators for the culturally significant entity, in accordance with any processes or requirements specified in the methodology determination.
260. These requirements will ensure that the Regulator is able to accurately assess the progress of each registered biodiversity project toward its biodiversity outcome, while ensuring flexibility for methodology determinations to set monitoring requirements that are specific to, and fit for purpose for, projects covered by the particular methodology determination.

#### Section 17 – Assessing change in other variable biodiversity project characteristics

261. As noted above, section 11 makes it clear that, in addition to the variable biodiversity project characteristics mentioned in the BAI (ecosystem condition, removal of threats, commitment to protection of biodiversity, capability of the project area to support threatened species and culturally significant entities), a methodology determination can also specify other variable biodiversity project characteristics for projects covered by that methodology determination.
262. Examples of other variable biodiversity project characteristics specific to a methodology determination could potentially include:
- a. assessing benefits for particular species that are the focus of the method;
  - b. changes to physical conditions (e.g. hydrology, physical or chemical characteristics);
  - c. assessing habitat links and flows within the project area. For example, how the project area supports movement of animals (including pollinators) within the project area, including continuity of riparian habitat.
263. Section 17 provides that if a methodology determination specifies additional variable biodiversity project characteristics for projects covered by that methodology determination, the methodology determination must also specify conditions and requirements, as appropriate, that are relevant to assessing and measuring change in the specified variable biodiversity characteristic.



264. This will ensure that the change, as a result of project activities, to variable biodiversity characteristics that are specific to a particular methodology determination will be able to be measured and assessed in a way that contributes to monitoring the progress towards the biodiversity outcome for the project.
265. The intent is that the approach to the method-specific biodiversity project characteristics would be similar to the standard set of characteristics set out in sections 13 to 16 of the BAI. It would be expected that methodology determinations specifying other variable biodiversity project characteristics would establish requirements for indicators, forecasts and monitoring and reporting of status and change, and for this information to be on the Register.

#### Section 18 – Measuring and assessing biodiversity outcomes

266. Section 18 contains requirements for methodology determinations relating to measuring and assessing the progress of a project towards the project's biodiversity outcome, including in relation to conditions for applying for, and issuing a biodiversity certificate for the project.
267. Generally, progress towards the biodiversity outcome for a project is assessed by measuring the change in the variable biodiversity project characteristics for the project – from the starting value of the indicators to the forecast value of the indicators – over the duration of the project.
268. Subsection 18(1) deals with the timeframe for projects to achieve the project's biodiversity outcome. Methodology determinations must either:
- a. specify the period within which the biodiversity outcome for all biodiversity projects covered by the methodology determination is intended to be achieved; or
  - b. require the project proponent to specify the period within which the biodiversity outcome for the project is to be achieved, consistently with the processes or requirements specified in the methodology determination.
269. The purpose of this provision is to ensure there is appropriate consistency between projects covered by a methodology determination in relation to the length of time for the project to achieve its biodiversity outcome. This is an important variable in ensuring that projects are able to be compared by market participants. It also allows for more accurate measurement and assessment of change in the variable biodiversity project characteristics for the project.
270. Subsection 18(2) deals with project plans. If a methodology determination requires that there must be a project plan for a project that is covered by the methodology determination, the methodology determination must also require the project plan to address, based on evidence, how the project proponent intends to achieve the biodiversity outcome for the project.

271. This requirement will assist in ensuring that the project is designed and implemented in a way that takes into account the biodiversity outcome for the project, based on evidence. This project-level planning is part of ensuring that the activities are appropriate to the project area. This will increase the likelihood of the project reaching the required threshold to be issued a certificate.
272. Subsections 18(3) and 18(4) deal with determining the threshold values for indicators for variable biodiversity project characteristics. The purpose of a ‘threshold value’ for an indicator is to set a threshold for a level of change in each indicator of a variable biodiversity project characteristic that is sufficient for the Regulator to be able to satisfy themselves that the biodiversity outcome for the project is likely to be achieved. This differs from the forecast value of the indicators, which reflects the change in each variable biodiversity project characteristic that is necessary to achieve the biodiversity outcome for the project.
273. This means that the threshold value for an indicator will often (but not always) be lower than the forecast value of the indicator. The threshold value will reflect that there has been sufficient change in the indicators that the forecast value is considered likely to be achieved in the future.
274. Subsection 18(3) has the effect that, for each indicator of a variable biodiversity project characteristic other than culturally significant entities, a methodology determination must either:
- a. specify the threshold value of the indicator; or
  - b. require the project proponent to determine the threshold value of the indicator, consistently with the processes or requirements specified in the methodology determination.
275. Subsection 18(4) has the effect that, where the indicator is for a culturally significant entity, a methodology determination must require the project proponent to determine the threshold value of the indicator, consistently with the processes or requirements specified in the methodology determination.
276. In other words, a methodology determination cannot itself specify the threshold value for an indicator for a culturally significant entity; it must require the project proponent to do so. This acknowledges that it is inappropriate for the Minister, through the methodology determination, to set thresholds for when there is sufficient change in a culturally significant entity to reflect that the biodiversity outcome is likely to be met. Instead, the intention is that appropriate threshold values against which change in the indicators for culturally significant entities can be measured would be determined by the relevant Aboriginal persons or Torres Strait Islanders for the project area. Project proponents would be required to engage appropriately with the relevant Aboriginal persons or Torres Strait Islanders for the project to support a culturally appropriate,

locally relevant and place-based approach to determining threshold values for projects nominating to enhance and protect culturally significant entities as part of the project.

277. Subsection 18(5) contains requirements for methodology determinations relating to information that must be included in the Register entry for projects. A methodology determination must require the following information to be included on the Register for a project:

- a. the biodiversity outcome for the project;
- b. the period within which the biodiversity outcome is intended to be achieved;
- c. for variable biodiversity project characteristics other than culturally significant entities:
  - i. the threshold value for each indicator; and
  - ii. if the threshold value for an indicator has been met – a statement to that effect and evidence supporting that statement;
- d. for culturally significant entities:
  - i. where the relevant Aboriginal persons or Torres Strait Islanders have consented to such information being included in the Register:
    - I. the threshold value for each indicator; and
    - II. if the threshold value for an indicator has been met – a statement to that effect, evidence supporting that statement and a statement as to whether the threshold value being met has been verified by the relevant Aboriginal persons or Torres Strait Islanders for the project area;
  - ii. where the relevant Aboriginal persons or Torres Strait Islanders have not consented to the above information being included in the Register:
    - I. a statement that there is a threshold value for each indicator; and
    - II. if the threshold value for an indicator has been met—a statement to that effect and a statement as to whether the threshold value being met has been verified by the relevant Aboriginal persons or Torres Strait Islanders for the project area.

278. Making this information available on the public Register for each project will ensure transparency in how projects are progressing towards their biodiversity outcome – which will, in turn, allow projects to be meaningfully compared on the Nature Repair

Market – while respecting Indigenous knowledge, values and traditions, and the terms of consent provided for the use of the Indigenous knowledge.

279. Subsection 18(6) contains requirements for biodiversity project reports relating to threshold values for indicators of variable biodiversity project characteristic. A methodology determination must require that, where the project proponent is satisfied that the threshold value for an indicator for a variable biodiversity project characteristic for the project has been met, each biodiversity project report for the project must include:

a. a statement to that effect; and

b. either:

i. if the threshold value is for an indicator for a culturally significant entity:

I. evidence that the relevant Aboriginal persons or Torres Strait Islanders for the project area have verified that the threshold value has been met; and

II. if the relevant Aboriginal persons or Torres Strait Islanders for the project area have consented to including such information—evidence supporting the statement that the threshold value has been met; or

ii. otherwise—evidence supporting the statement.

280. These requirements apply to both category A biodiversity project reports and category B biodiversity project reports and will assist the Regulator in assessing the progress of each registered biodiversity project toward its biodiversity outcome.

281. These requirements also reflect that it is not appropriate for the Regulator to conduct a cultural values assessment; as such, it is a matter for the relevant Aboriginal persons or Torres Strait Islanders to verify whether the threshold value for an indicator for a culturally significant entity has been met.

282. To ensure transparency, evidence is encouraged to support statements that the threshold has been met for indicators of culturally significant entities. Evidence can be shared in a culturally appropriate form. For example, culturally appropriate evidence could include, but not be limited to, audio or written records of observations or cultural activities occurring, images or visual representations of or other demonstrations of healthy Country processes happening in relation to the indicators and objectives for the culturally significant entity.

283. This approach respects Indigenous knowledge, values and traditions, while still allowing project proponents to demonstrate the progress of their project towards

meeting all required threshold values. The relevant Aboriginal persons and Torres Strait Islanders may choose not to provide this information as part of project reporting, for example for the purpose of protecting cultural information. In this instance, evidence that the relevant Aboriginal persons or Torres Strait Islanders have verified that the threshold has been met is required.

284. Subsection 18(7) provides that a methodology determination must require project proponents to monitor the progress of their project towards the threshold values for each indicator for the variable biodiversity project characteristics for the project. This requirement will ensure that the Regulator is able to accurately assess the progress of each registered biodiversity project toward the criteria for issuing a biodiversity certificate for the project.
285. Subsections 18(8) and 18(9) contain requirements for methodology determinations relating to biodiversity certificates.
286. Subsection 18(8) requires methodology determinations to include a condition on applying for a biodiversity certificate to the effect that the project proponent for a project can only apply for a biodiversity certificate for the project if the project proponent:
- a. is satisfied that the threshold value for each indicator for each variable biodiversity project characteristic for the project has been reached; and
  - b. where the indicator is for a variable biodiversity project characteristic other than a culturally significant entity – provides a statement to that effect, along with evidence supporting the statement; and
  - c. where the indicator is for a culturally significant entity – provides evidence that the relevant Aboriginal persons or Torres Strait Islanders for the project area have verified that the threshold value for the indicator has been met.
287. This requirement reflects the requirements for issuing a biodiversity certificate (see subsection 18(9)) and will ensure that project proponents cannot apply for a biodiversity certificate until the project has sufficiently progressed towards its biodiversity outcome to enable a biodiversity certificate to be issued for the project. This is an important requirement for ensuring integrity in the Nature Repair Market.
288. Subsection 18(9) requires methodology determinations to include a condition on issuing a biodiversity certificate for a project that has the effect that the Regulator can only issue a biodiversity certificate for a project if the Regulator is satisfied that the threshold value for all indicators for all variable biodiversity project characteristics for the project are met. For culturally significant entities, this means the Regulator would need to be satisfied that the relevant Aboriginal persons or Torres Strait Islanders for the project area have verified that all threshold values for each indicator for the culturally significant entity have been met.

289. Limiting when a biodiversity certificate can be issued for a project to those projects that have met all relevant threshold values for changes in indicators reflects that the purpose of a ‘threshold value’ for an indicator is to set a threshold for a level of change in each indicator of a variable biodiversity project characteristic that is sufficient for the Regulator to be able to satisfy themselves that the biodiversity outcome for the project is likely to be achieved – which is the test in section 70 of the NR Act for issuing a certificate.

## Statement of Compatibility with Human Rights

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

*Nature Repair (Biodiversity Assessment) Instrument 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 the Legislative Instrument

The *Nature Repair (Biodiversity Assessment) Instrument 2025* (the BAI) is made under subsection 58(1) of the *Nature Repair Act 2023* (NR Act). Its purpose is to ensure appropriate consistency in how methodology determinations under the NR Act measure and assess biodiversity in native species (including both starting state and changes in biodiversity over time).

This reflects the fact that a key policy for the design of the NR Act is to provide a nationally consistent approach to measuring and assessing biodiversity – which will, among other things, enable market participants (e.g. potential buyers) to be able to compare projects developed under different methodology determinations in terms of the project’s impact (or likely impact) on biodiversity.

The BAI sets requirements that all methodology determinations must comply with. This includes:

- requiring methodology determinations to include conditions on registration that require the project proponent of a biodiversity project covered by the methodology determination to:
  - appropriately engage with relevant Aboriginal persons or Torres Strait Islanders in the design and implementation of the project, including obtaining appropriate consents;
  - assess the project area at the start of the project, including in relation to the starting ecosystem condition state and the reasonably expected effects of climate change;
  - either specify, or provide a process for the project proponent to establish, counterfactual scenarios for the project;
  - identify and describe the reference ecosystems for the project area or, where relevant, for each activity area;
  - identify and describe the variable biodiversity project characteristic that is ecosystem condition;
  - where relevant, identify and describe other variable biodiversity project characteristics, such as:
    - removal or reduction of the impact of threats to biodiversity in native species in the project area;

- commitment to protection of biodiversity in native species in the project area; and
  - capability of the project area to support threatened species;
- determine indicators, starting and forecast values for each such indicators and where applicable, the forecast change in the indicators, for each relevant variable biodiversity project characteristic for the project – to allow change in these characteristics to be measured and assessed over the course of the project;
- determine relevant starting scores and forecast scores for each variable biodiversity project characteristic;
- requiring methodology determinations to include conditions on issuing a biodiversity certificate to the effect that a certificate cannot be issued for a project covered by the methodology determination unless the Regulator is satisfied that:
  - the threshold values for each indicator for each relevant variable biodiversity project characteristic has been met (and, where relevant, appropriately verified); and
  - where relevant, the project has been implemented in accordance with the consent obtained from relevant Aboriginal persons and Torres Strait Islanders;
- requiring methodology determinations to require certain information relating to the assessment of change in the relevant variable biodiversity project characteristic is included in the entry in the Register for the project, and in each biodiversity project report prepared for the project;
- requiring methodology determinations include certain monitoring requirements relating to the assessment of change in the relevant variable biodiversity project characteristics;
- requiring methodology determinations to include certain project plan requirements relating to the assessment of change in the relevant variable biodiversity project characteristics;
- requiring methodology determinations to provide a process for the nomination of, and assessment of change in, culturally significant entities. This process must include obtaining appropriate consents from, and appropriate verification of outcomes by, the relevant Aboriginal persons and Torres Strait Islanders.

These requirements are intended to ensure appropriate consistency in how methodology determinations under the NR Act deal with the measurement and assessment of biodiversity in native species.

These requirements will also provide transparency in how the Regulator will assess whether the project is sufficiently progressed to have resulted in, or be likely to result in, the biodiversity



outcome for the project – as required under the NR Act to issue a biodiversity certificate for the project.

**Human rights implications**

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

**Conclusion**

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

**The Hon. Tanya Plibersek MP**  
**Minister for the Environment and Water**