

EXPLANATORY STATEMENT

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

Nature Repair Act 2023

*Nature Repair (Replanting Native Forest and Woodland Ecosystems) Methodology
Determination 2025*

Purpose

The purpose of the *Nature Repair (Replanting Native Forest and Woodland Ecosystems) Methodology Determination 2025* (RNF Methodology) is to set out requirements for a specified kind of biodiversity project to be registered and operate under the *Nature Repair Act 2023* (NR Act).

The RNF Methodology is intended to apply to projects that enhance biodiversity in native species by replanting native forest and woodland ecosystems in modified landscapes. Restoration of native ecosystems will allow enhancement and protection of biodiversity in modified landscapes by improving the extent and condition of native vegetation and supporting ecological connectivity.

All biodiversity projects registered under this methodology determination will be required to undertake plantings of species native to the local area, consistent with appropriate reference ecosystems. The plantings must be maintained for the permanence period, which may require remedial plantings. Other management actions, including livestock and grazing pressure management, weed management, pest management, and fire management, would be complementary activities to minimise threats and support the establishment and maintenance of plantings.

Legislative authority

The RNF Methodology is made under section 45 of the NR Act.

Subsection 45(1) of the NR Act allows the Minister to, by legislative instrument, make a methodology determination that:

- a. is expressed to cover a certain kind of biodiversity project;
- b. sets out conditions that must be met for such a project to be registered as a registered biodiversity project;
- c. provides for information that is to be included in the entry in the Register for such a project;
- d. sets out conditions that must be met for an application to be made for a biodiversity certificate to be issued in respect of such a project;
- e. sets out a method of working out the time after which such applications for a biodiversity certificate for the project must be made;
- f. sets out conditions that must be met for a biodiversity certificate to be issued in respect of such a project;

- g. requires the project proponent for such a project to notify the Regulator of specified matters relating to the project;
- h. provides for information that is to be included in the entry in the Register for a biodiversity certificate issued in relation to such a project;
- i. sets out the activities that are to be carried out for the purposes of such a project; and
- j. provides for the activity period (if any) of such a project to be worked out.

In addition, subsection 45(3) allows a methodology determination to impose any or all of the following kinds of requirements on the project proponent of a registered biodiversity project that is covered by the methodology determination:

- a. specified requirements to carry out activities in the project area for the purposes of the project;
- b. specified requirements to ensure that specified activities are not carried out, by the project proponent or any other person, in the project area;
- c. specified requirements to include information relating to the project in each biodiversity project report about the project;
- d. specified requirements to notify one or more matters relating to the project to the Regulator;
- e. specified record keeping requirements relating to the project;
- f. specified requirements to monitor the project.

Subsection 45(7) of the NR Act allows a methodology determination to require that there must be a project plan for a registered biodiversity project covered by the methodology determination, and that the plan must remain in force for the period specified in the methodology determination.

The RNF Methodology is made for the purposes of subsections 45(1), 45(3) and 45(7) of the NR Act.

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 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 repair 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;
- 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, which provides 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 RNF Methodology sets requirements for projects that enhance biodiversity in native species by replanting native forest and woodland ecosystems in modified landscapes.

In particular, the RNF Methodology sets conditions and requirements for such projects relating to:

- the kinds of activities that can be carried out for the purposes of the project;
- the kinds of activities that are prohibited;
- the location where project activities can be carried out;
- the stratification of the project area into activity areas;
- the starting state assessment of the project area, including (but not limited to) the ecosystem condition of each activity area. This includes requirements to, for each activity area, establish permanent sampling plots, determine a reference ecosystem or ecosystems, determine benchmark values for each indicator for ecosystem condition, determine the starting ecosystem condition state, determine the starting values of each indicator for ecosystem condition, calculate the starting and forecast ecosystem condition scores, and calculate the starting and forecast contribution to biodiversity persistence scores. It also includes requirements to calculate the starting and forecast aggregate ecosystem condition scores, and the starting and forecast aggregate contribution to biodiversity persistence scores for the project as a whole;
- the site assessment report for the starting state assessment;
- the project plan for the project;
- the nomination of restoration targets for each activity area;

- the nomination of culturally significant entities to be assessed as part of the project (as an additional variable biodiversity project characteristic);
- identifying and describing a reference ecosystem or ecosystems for each activity area;
- notifying the Regulator of certain information;
- monitoring the project, including progress towards the nominated restoration targets and threshold values for each indicator;
- including certain information in each biodiversity project report;
- information and documents to include in an application for approval of registration for such a project;
- including certain information on the entry in the Register for such a project;
- applying for, and being issued, biodiversity certificate in respect of the project.

Pre-conditions to making the RNF Methodology

Subsection 47(1) of the NR Act requires that, in deciding whether to make a methodology determination, the Minister:

- must have regard to:
 - whether the methodology determination complies with the biodiversity integrity standards; and
 - any advice that the Nature Repair Committee (the Committee) has given to the Minister under subsection 54(2) of the NR Act in relation to the making of the methodology determination; and
- may have regard to:
 - whether significant adverse environmental, agricultural, economic, cultural or social impacts are likely to arise from the carrying out of the kind of project that the methodology determination covers; and
 - such other matters (if any) as the Minister considers relevant.

Subsection 47(2) of the NR Act requires that, before making a methodology determination, the Minister must request the Committee to advise the Minister about whether the Minister should make the methodology determination.

Subsection 47(3) of the NR Act relevantly provides that the Minister must not make a methodology determination unless:

- the Committee has given the Minister advice in relation to the making of the methodology determination; and
- that advice includes a statement to the effect that the Committee is satisfied that the methodology determination complies with the biodiversity integrity standards.

Subsection 47(5) of the NR Act provides that the Minister must not make a methodology determination unless the Minister is satisfied that the methodology determination complies with the biodiversity integrity standards.

The Minister complied with these requirements before making the RNF Methodology.

In particular:

- the Minister sought advice from the Committee about whether to make the Methodology; and
- the Committee complied with the requirements for providing advice on whether to make the RNF Methodology, as set out in sections 54 and 55 of the NR Act;
- the Committee provided advice to the Minister about whether the Minister should make the RNF Methodology;
- the Committee's advice included a statement to the effect that the Committee is satisfied that the RNF Methodology complies with the biodiversity integrity standards.
- the Minister had regard to the Committee's advice in deciding whether to make the RNF Methodology.

The NR Act does not specify any other conditions that need to be met before the RNF Methodology 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 RNF Methodology. 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 2023 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 RNF Methodology. The Committee published a detailed outline of the proposed methodology determination on the Department's website on 1 October 2024 inviting public submissions by 30 October 2024. The

Committee then extended the time to provide submissions until 4 November 2024. Committee members also participated in a series of targeted consultations with key stakeholder groups.

A total of 51 submissions were received on the detailed outline of the proposed methodology determination. Submissions were received from a wide range of stakeholders including First Nations groups, environmental non-government organisations, and participants in existing environmental markets.

The Committee considered all submissions in preparing their advice to the Minister on whether to make the RNF Methodology. 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 RNF Methodology are set out in Attachment A.

The RNF Methodology commences on the later of the day after the instrument is registered on the Federal Register of Legislation, and immediately after the commencement of the *Nature Repair (Biodiversity Assessment) Instrument 2025*. However, the RNF Methodology does not commence at all if that instrument does not commence.

Other matters

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

The RNF Methodology 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 (Replanting Native Forest and Woodland Ecosystems) Methodology Determination 2025*

Part 1 – Preliminary

Section 1 – Name

1. Section 1 provides that the name of the instrument is the *Nature Repair (Replanting Native Forest and Woodland Ecosystems) Methodology Determination 2025* (the RNF Methodology).

Section 2 – Commencement

2. Section 2 of the RNF Methodology provides that the RNF Methodology commences on the later of:
 - a. the day after the instrument is registered on the Federal Register of Legislation; and
 - b. immediately after the commencement of the *Nature Repair (Biodiversity Assessment) Instrument 2025* (the BAI).
3. However, the RNF Methodology does not commence at all if the BAI does not commence. This is necessary because subsection 45(12) of the *Nature Repair Act 2023* (NR Act) has the effect that a methodology determination can only be in force if there is a biodiversity assessment instrument that applies to that methodology determination that is also in force.
4. 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.
5. 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

6. Section 3 of the RNF Methodology provides that the RNF Methodology is made under section 45 of the NR Act.

Section 4 – Schedules

7. Section 4 of the RNF Methodology provides that any provision in a Schedule to this instrument has effect according to its terms.

Section 5 – Definitions

8. Section 5 of the RNF Methodology defines key terms used in the RNF Methodology. This includes some ‘signpost’ definitions that refer readers to the sections of the RNF Methodology in which terms are substantively defined.
9. Some key definitions in section 5 are relevant to the project activities and where the project activities can be carried out.
10. The term *planting* is defined as both a verb and as a noun. As a verb, *planting* means to put or set in the ground native species that are eligible under this methodology determination using propagated seedling stock, direct seeding (including in rows or broadcast) or a combination of those methods, for the purposes of growing plant species native to the local area. As a noun, *planting* means an area of native species established by planting.
11. A *life form*, in relation to a plant or species of plant, means the growth expression of an individual flora species within a vegetation community as one of the following: tree, shrub, vine, grass or herbaceous vascular plant other than grass. A *tree* means a woody plant that is, or has the potential to become, more than 2 metres tall, and has either a single trunk or lower branches well above the base. A *shrub* means a woody plant that is not a tree or a vine.
12. A *forest* is defined to mean land of a minimum area of 0.2 hectares on which trees and shrubs have attained, or have the potential to attain, a crown cover of at least 20% across the area of land, and have reached, or have the potential to reach, a height of at least 2 metres. Some native vegetation communities that are called woodlands fit this definition.
13. The term *forest cover* is defined so that land has forest cover if the vegetation on the land includes trees and shrubs that are 2 metres or more in height, and provide crown cover of at least 20% of the land. Similarly, the term *forest cover potential* is defined to mean land has forest cover potential if it is likely to be able to support trees and shrubs that are from the reference ecosystem identified as applicable for the land, are over 2 metres in height and that provide crown cover equal to or greater than 20%, defined at the 0.2 hectare scale. *Crown cover* is defined as the proportion of ground area covered by the vertical projection of tree and shrub crowns and the stem and foliage of vines.
14. A *reference ecosystem* is defined, in relation to an activity area or sub-area, as an ecosystem that will serve as the model or benchmark for restoration, against which to compare the ecosystem condition of the activity area or sub-area. The reference ecosystem for an activity area or sub-area is identified in accordance with the process in section 46.
15. Another key definition in section 5 is *project outcome*. The *project outcome*, for a replanting project covered by the RNF Methodology, means the biodiversity outcome

that is specified in the registration application. In other words, the project outcome is the biodiversity outcome for the particular project.

16. BAI is defined as the *Nature Repair (Biodiversity Assessment) Instrument 2025*.
17. A *nominated restoration target* for an indicator means the following:
 - a. for an indicator for ecosystem condition in an activity area, means the restoration target nominated in accordance with section 39; and
 - b. for an indicator for the condition of a culturally significant entity, means the restoration target nominated in accordance with section 41.
18. The term restoration target in the Replanting Method is equivalent to the term forecast value in the Biodiversity Assessment Instrument.
19. For projects nominating culturally significant entities, the restoration target for the indicators of culturally significant entities relates to the enhancement or protection of the culturally significant entity as a result of the project.
20. Section 5 also contains key definitions relating to how projects interact with Aboriginal persons and Torres Strait Islanders and their knowledge.
21. 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.
22. This term is relevant to the mandatory requirements for engagement in section 28; 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.
23. The RNF Methodology also contains requirements for methodology determinations relating to voluntary engagement with relevant Aboriginal persons or Torres Strait Islanders, including in relation to nominating a culturally significant entity to assess as part of the project. The term *relevant Aboriginal persons or Torres Strait Islanders*, for a project area, is defined to mean 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.
24. Some important signpost definitions in section 5 are *activity area*, *project activities*, *environmental planting*, *culturally significant entity*, *comprehensively cleared*, *indicator*, *staggered planting*, and *threshold value*.
25. The note at the top of section 5 directs the reader to other key terms that are used in the RNF Methodology but that are defined in the NR Act.

Section 6 – Biodiversity projects covered by this instrument

26. Paragraph 45(1)(a) of the NR Act requires a methodology determination to be expressed to cover a specified kind of biodiversity project.
27. Subsection 6(1) is made for the purposes of paragraph 45(1)(a) of the NR Act and provides that the RNF Methodology applies to a biodiversity project that is designed to enhance or protect biodiversity in native species by replanting native forest and woodland ecosystems in the project area on historically cleared land in modified landscapes in a way that will improve the extent and condition of native vegetation or support ecological connectivity.
28. Revegetation for native ecosystems in cleared areas involves restoration on land that has been comprehensively cleared, with the aim of moving the land to a state more similar

to its pre-clearing condition for native biodiversity, including re-establishing vegetation structure, composition and function that reflects the reference ecosystem.

29. This sets the scope of the RNF Methodology. Projects that do not meet this description will not be, and will not be able to be, covered by the RNF Methodology. This means that a project that does not meet the description in subsection 6(1) will not be able to be registered under the NR Act as a biodiversity project covered by the RNF Methodology determination.
30. In contrast, projects that do meet the description in subsection 6(1) will be covered by the RNF Methodology. Such projects will, therefore, only be able to be registered under the NR Act if they comply with the requirements of the RNF Methodology.
31. Subsection 6(2) clarifies that, in this instrument, a project covered by subsection 6(1) is referred to as a *replanting project*.

Section 7 – Fixed biodiversity project characteristics for a replanting project

32. Section 10 of the BAI deals with the concept of fixed biodiversity project characteristics.
33. 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 of the BAI).
34. Subsection 10(1) of the BAI has the effect that all methodology determinations must include a condition on registration to the effect that a biodiversity project covered by the methodology determination can only be registered if the project proponent for the project 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.
35. The standard fixed 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 methodology determination 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.

36. The RNF Methodology requires that a biodiversity project proposed to be covered by the methodology determination be divided into activity areas. This means the effect of subsection 10(1) of the BAI is that the RNF Methodology must include a condition on registration to the effect that the project proponent must identify and describe:
 - a. the reference ecosystem for each proposed activity area; and
 - b. any other fixed biodiversity project characteristics specified in the methodology determination.
37. The purpose of section 7 of the RNF Methodology is to clarify that:
 - a. the RNF Methodology does not specify any additional fixed biodiversity project characteristics;
 - b. as such, the only fixed biodiversity project characteristic for a replanting project under the RNF Methodology is the set of reference ecosystems for each proposed activity area.
38. The requirement in subsection 10(1) of the BAI is met by requiring the project proponent for a biodiversity project covered by the RNF Methodology to identify and describe the reference ecosystem for each proposed activity area in the site assessment report for the starting state assessment (see section 35 below) and in project plan for the project (see section 37 below).

Section 8 – Variable biodiversity project characteristics for a replanting project

39. Section 11 of the BAI deals with variable biodiversity project characteristics.
40. A *variable biodiversity project characteristic*, for a project, means the biodiversity project characteristics for the project that are not fixed biodiversity project characteristics for the project (see section 4 of the BAI). 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.
41. The 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. 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 of the BAI);

- 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 of the BAI);
 - 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 of the BAI);
 - 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 of the BAI);
 - 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 of the BAI);
 - 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 of the BAI).
42. These standard 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.
43. 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.
44. The requirements in the BAI 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 identify, describe, and assess ecosystem condition;
 - b. all projects have the option to identify, describe, and 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. 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.
45. The purpose of section 8 of the RNF Methodology is to clarify which variable biodiversity project characteristics apply to projects covered by the RNF Methodology.
46. Subsection 8(1) makes it clear that the variable biodiversity project characteristics that apply to a replanting project under the RNF Methodology are:
- a. the ecosystem condition of each of the activity areas; and
 - b. if the project proponent has nominated any culturally significant entities – those culturally significant entities.
47. This means that project proponents for projects covered by the RNF Methodology are required to identify and describe, and assess the change in, the ecosystem condition of each activity area and any nominated culturally significant entities, as a result of the project, in accordance with the requirements of this instrument. The change in these characteristics that can be attributed to the project will be used by the Regulator to assess progress towards the biodiversity outcome for the project.
48. Subsection 8(2) clarifies that there are no additional (method-specific) variable biodiversity project characteristics for the RNF Methodology.
49. Subsection 8(3) makes it clear that the remainder of the variable biodiversity project characteristics, being:
- a. the removal or reduction of the impact of threats to biodiversity in native species in the project area; and
 - b. the commitment to protection of biodiversity in native species in the project area; and
 - c. the capability of the project area to support threatened species,
- are not applicable to projects covered by the RNF Methodology. This means project proponents are not required to identify and describe, and assess the change in, these characteristics.

Section 9 – Counterfactual scenario for a replanting project

50. Section 9 of the BAI deals with counterfactual scenarios for biodiversity projects.

51. A counterfactual scenario, for a biodiversity project, is a scenario describing what would have happened, or is likely to happen, in the absence of the project. 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 verified as resulting from the project activities.
52. 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.
53. In contrast, where the counterfactual scenario for the project is not static (either declining or increasing), the measured change in the relevant variable biodiversity project characteristics needs to be compared against the change that would have happened without the project – and the difference between these two variables is the 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 get worse’), the measured change in variable biodiversity project characteristics will not represent the entirety of the change that is due to the project.
54. Accordingly, where the counterfactual scenario for a project is not static, further calculations are needed to measure the change to the variable biodiversity project characteristic that can be attributed to the project.
55. Section 9 of the BAI requires that a methodology determination either specify the counterfactual scenarios for projects covered by that methodology determination, or 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. Where the specified or established counterfactual scenario is not static, the BAI requires the methodology determination also contain additional requirements relating to calculating the forecast change in relevant indicators.
56. Section 9 of the RNF Methodology specifies, for the purposes of section 9 of the BAI, the counterfactual scenario that applies to all biodiversity projects covered by the RNF Methodology.
57. The specified counterfactual scenario reflects the likely ecosystem condition of the relevant land (the activity areas and the surrounding landscape) for biodiversity if the project was not undertaken. The counterfactual scenario is based on the starting ecosystem condition state of the relevant land for biodiversity described as starting

ecosystem condition state A, B, C or D. The counterfactual scenario assumes that, in the absence of the project, the condition of the land would remain unchanged (static) at the date of the site assessment and the land would remain clear of forest cover.

58. This is a static counterfactual scenario. This means that all of the change to the variable biodiversity project characteristic of a replanting project that occurs during the course of the project can be attributed to the project; it is not necessary to calculate the degree of change with reference to the counterfactual scenario.

Section 10 – Period of achievement for biodiversity outcome

59. Subsection 18(1) of the BAI requires a methodology determination to 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.
60. The purpose of this requirement 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 comparable on the Nature Repair Market. It also allows for more accurate measurement and assessment of change in the variable biodiversity project characteristics for the project.
61. Section 10 of the RNF Methodology specifies, for the purposes of subsection 18(1) of the BAI, the period within which the biodiversity outcome for all biodiversity projects covered by the methodology determination is intended to be achieved. The specified period is 25 years.
62. This period was chosen to provide confidence in the likely achievement of the outcome. Due to projected unpredictable climate change impacts, establishing requirements for a project outcome past 25 years was not considered appropriate.

Section 11 – Meaning of *ecosystem condition*, *indicator* and *sub-indicator*

63. Section 11 of the RNF Methodology defines the concept of *ecosystem condition* as a variable biodiversity project characteristic for the RNF Methodology and specifies the indicators by which changes in ecosystem condition under the RNF Methodology will be measured and assessed.
64. Subsection 11(1) provides that, in this instrument, the *ecosystem condition* of an activity area or sub-area is the quality of its ecosystem, measured in terms of its biotic and abiotic characteristics, in comparison with the reference ecosystem for the activity area or sub-area. Note also that ecosystem condition represents the capacity of an area to provide the structures and functions necessary for the persistence of all native species

naturally expected to occur in that area's reference ecosystem type if it were in an intact (or reference) state.

65. The note following subsection 11(1) explains that the ecosystem condition of an activity area at the beginning of the replanting project is categorised by the starting ecosystem condition state, and directs the reader to section 12, which defines that term.
66. Subsection 11(2) specifies the indicators for ecosystem condition, for the purposes of the RNF Methodology. These are:
 - a. canopy height of native vegetation (in metres);
 - b. crown cover from native plants in the canopy layer (as a percentage of reference);
 - c. crown cover from native plants in the mid-storey layer (as a percentage of reference);
 - d. crown cover from plants in the canopy layer provided by non-native plants (as a percentage of total crown cover of plants in the canopy layer);
 - e. crown cover from plants in the mid-storey layer provided by non-native plants (as a percentage of total crown cover of plants in the mid-storey layer);
 - f. ground cover from sub-category A1, A2 and A3 plants as a proportion of total ground cover from category A plants;
 - g. ground cover from sub-category A4 and A5 plants as a proportion of total ground cover from category A plants;
 - h. native species richness index by life form (native tree, shrub, vine, grass and herbaceous vascular plant species other than grasses).
67. Subsection 11(2) complies with subsections 11(9) and 11(10) of the BAI, which requires methodology determinations to either 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. Indicators are used to assess the change in the variable biodiversity project characteristics over the course of the project.
68. These indicators have been chosen for their ability to communicate broad-based ecological condition change within projects and their ability to demonstrate the project progress towards the restoration targets nominated by project proponents.
69. These indicators will allow projects to demonstrate change in ecosystem condition by measuring changes in the structure, function and composition of the ecosystem relative

to the benchmark. Accordingly, subsection 11(2) also complies with the requirements in subsection 11(10) of the BAI, which requires that where the indicator is for ecosystem condition, the methodology determination:

- a. ensure the indicator reflects measures of composition and structure of the reference ecosystems; and
 - b. consider including indicators that reflect the function of the reference ecosystems.
70. Subsection 11(3) introduces the concept of sub-indicators, which are only relevant to the indicator ‘native species richness index by life form (native tree, shrub, vine, grass and herbaceous vascular plant species other than grasses)’. As it is necessary to obtain benchmark values from each of the life forms that make up the native species richness indicator (see Schedule 2), the number of each of native trees, native shrubs, native vines, native grasses and native herbaceous vascular plant species other than grasses are specified as ‘sub-indicators’.
71. Subsection 11(4) clarifies that, in the RNF Methodology, a reference to an *indicator or sub-indicator* is a reference to:
- a. an indicator mentioned in subsection 11(2) other than the index mentioned in paragraph 11(2)(h) (native species richness index); or
 - b. a sub-indicator.
72. This interpretation rule is relevant to the process in Schedule 2 to the RNF Methodology, relating to determining benchmark values for the indicators and sub-indicators for ecosystem condition.

Section 12 – Meaning of *starting ecosystem condition state*

73. Section 12 of the RNF Methodology defines the concept of *starting ecosystem condition state* for the RNF Methodology. Project proponents are required to assess the starting ecosystem condition state for each activity area as part of the starting state assessment (see section 30 below).
74. The process for assessing the starting ecosystem condition state for an activity area is set out in Schedule 5 to the RNF Methodology. This process involves using the data obtained from applying the point intercept method, the quadrat method and the plot survey to permanent sampling points established in the relevant activity area to assign the starting ecosystem condition state for the activity area as either State A, State B, State C and State D.
75. An activity area will be assigned a starting ecosystem condition state of *State A* if:
- a. ground cover from category A plants is primarily from a diverse suite of subcategory A1, A2 and A3 plants; and

- b. the number of plant species from subcategories A1 and A2 is at least 80% of the benchmark value of the reference ecosystem identified for the activity area; and
 - c. no more than 5% of ground cover from category A plants is from plants from subcategories A4 and A5.
76. An activity area will be assigned a starting ecosystem condition state of *State B* if:
- a. it is not in State A; and
 - b. ground cover from category A plants is comprised of a simple mix of native species, which may include species that are not native to the local area; and
 - c. no more than 50% of ground cover from category A plants is from plants from subcategories A4 and A5.
77. An activity area will be assigned a starting ecosystem condition state of *State C* if:
- a. it is not in State A or State B; and
 - b. more than 50% of ground cover from category A plants is from plants that are from sub-category A4 and that have not been cultivated for cropping in the past 5 years.
78. An activity area will be assigned a starting ecosystem condition state of *State D* if it is not in State A, State B or State C.
79. This means that an activity area that is assigned a starting ecosystem condition of State A will be in a less degraded state (i.e. will have higher ecosystem condition and more closely resemble the reference ecosystem) at the start of the project than an activity area that is assigned a starting ecosystem condition state of, for example, State D. This will affect the restoration target level that the project proponent is able to nominate for the activity area (see section 39 below). The more modified the starting state is from reference the less likely restoration target level 3 or 4 could be achieved. In contrast, because ecosystem condition can only increase as a result of a project, starting from a relatively high ecosystem condition state allows only higher restoration target levels to be set.
80. Subsection 12(2) contains definitions for *category A plant*, *subcategory A1 plant*, *subcategory A2 plant*, *subcategory A3 plant*, *subcategory A4 plant* and *subcategory A5 plant*. These terms are used in the definitions of State A, State B, State C and State D above.
81. A *category A plant* means a living ground layer vascular plant.

82. A *subcategory A1 plant* means a living grass from a species that is native to the local area;
83. A *subcategory A2 plant* means a living herbaceous vascular plant, other than a grass, from a species that is native to the local area.
84. A *subcategory A3 plant* means a living woody plant within the ground layer (less than 1 metre tall) from a species that is native to the local area; this may be a seedling, a vine or a small plant of a native tree or shrub species.
85. A *subcategory A4 plant* means a living ground layer plant from a species that is not native to the local area, other than a non-native non-pasture crop species.
86. A *subcategory A5 plant* means a living ground layer plant from a non-native non-pasture crop species.

Part 2 – Project requirements

Division 2.1 – General

Section 13 – Conditions for registration as registered biodiversity project

87. Paragraph 45(1)(b) of the NR Act requires a methodology determination to set out any conditions that must be met for a biodiversity project covered by the methodology determination to be registered as a registered biodiversity project.
88. Part 2 of the RNF Methodology (sections 13 to 51) set out the requirements for projects covered by this methodology determination.
89. Section 13 of the RNF Methodology determination has the effect that it is a condition of registration for a replanting project that the project proponent has:
 - a. satisfied the conditions in Part 2 of the RNF Methodology; and
 - b. taken any actions that Part 2 of the RNF Methodology requires to be taken prior to the project’s registration; and
 - c. provided the information and documents listed in section 52 of the RNF Methodology as part of the application for approval of registration for the project.
90. In other words, the effect of section 10 is that a biodiversity project that is covered by the RNF Methodology can only be registered if the Regulator is satisfied that the project proponent has complied with all conditions and requirements in Part 2, and with the application requirements in section 52.
91. The conditions and requirements in Part 2 of the RNF Methodology that must be met prior to registration primarily relate to:

- a. the eligibility of land in the project area;
 - b. stratifying the project area into activity areas;
 - c. requirements for project activities;
 - d. requirements for the starting state assessment;
 - e. a requirement to prepare a project plan for the project and requirements for the contents of that plan; and
 - f. requirements relating to culturally significant entities.
92. The BAI requires methodology determinations to include a number of conditions on registration. These conditions are met by the RNF Methodology by imposing requirements to the relevant effect on the project proponent through the requirements for the starting state assessment and the project plan (see below). As noted above, the effect of section 10 is that compliance with such requirements is a condition on registration of a replanting project.

Division 2.2 – Project activities

Section 14 – Activities to be carried out in the replanting project

93. Paragraph 45(1)(h) of the NR Act requires a methodology determination to set out the activities that are to be carried out for the purposes of the project. Subsection 14(1) is made for the purposes of paragraph 45(1)(h) of the NR Act and sets out the activities that must be carried out for the purposes of a replanting project under the RNF Methodology.
94. Subsection 14(1) makes it clear that a replanting project under the RNF Methodology must involve all of the following activities:
- a. environmental planting on land within the project area; and
 - b. the maintenance of the plantings for the permanence period of the project (which may require staggered plantings or remedial plantings); and
 - c. appropriate complementary activities and management actions to:
 - i. support the establishment and maintenance of the plantings; and
 - ii. minimise threats to the plantings and to the achievement of the project outcome.
95. The term *environmental planting* is defined in section 17 as a planting of one or more native species in an activity area or sub-area that meets certain requirements.

96. These activities are consistent with the kind of biodiversity project that is covered by the RNF Methodology, being a project that is designed to enhance or protect biodiversity in native species by replanting native forest and woodland ecosystems in the project area on historically cleared land in modified landscapes in a way that will improve the extent and condition of native vegetation and support ecological connectivity. The requirements to undertake complementary activities and management actions, and to maintain the plantings for the permanence period of the project will ensure the longevity of the plantings.
97. Subsection 45(3)(a) of the NR Act provides that a methodology determination may impose specified requirements on the project proponent of a registered biodiversity project that is covered by the methodology determination to carry out specified activities in the project area for the purposes of the project. Paragraph 45(3)(b) of the NR Act provides that a methodology determination may impose on the project proponent of a registered biodiversity project that is covered by the methodology determination specified requirements to ensure that specified activities are not carried out, by the project proponent or any other person, in the project area.
98. The requirements in subsections 14(2), (4), (5) and (6) are imposed for the purposes of paragraphs 45(3)(a) and (b) of the NR Act (see subsection 14(7)). These requirements must be complied with by a project proponent when undertaking the planting activities specified in subsection 14(1). These requirements relate to the use of fire, grazing and ecological thinning when undertaking maintenance or management actions.

Requirements relating to use of fire

99. Subsections 14(2) and (3) have the combined effect that, where appropriate management actions involve the use of fire, and those actions cannot be classified as the appropriate use of fire to mitigate risks to life, property or biodiversity (including risks from a bushfire or potential bushfire) taken in accordance with relevant Commonwealth, State or Territory laws, the project proponent must ensure that:
 - a. burning does not take place within an activity area where the plantings are less than 5 years old; and
 - b. no more than 20% of an activity area is deliberately burnt in a calendar year, unless limited to the ground layer for the express purpose of removing weed seedbanks (which could include for example removing living weed species before they set seed or seed in the soil); and
 - c. burning does not take place within an activity area more than once every 7 years; and
 - d. areas burnt by bushfire, or by a burn conducted in response to an imminent threat from bushfire (a bushfire event), is not deliberately burnt for 5 years following the bushfire event.

Requirements relating to grazing

100. Subsections 14(4) and (5) impose the following requirements on the project proponent relating to managing grazing in the project area:
- a. The project proponent must ensure that all livestock are excluded from an activity area until the plantings in the activity area have become established so that 90% of individual trees that comprise the plantings in the activity area have reached 1.5 metres; and
 - b. Where total grazing pressure (including from livestock, vertebrate pests and overabundant native species such as kangaroos and wombats) presents a threat either to the establishment of plantings prior to or during planting or direct seeding, or to the achievement of the project outcome – the project proponent must manage the grazing pressure appropriately, in a manner that is consistent with any applicable Commonwealth, State or Territory laws or policies.

Requirements relating to thinning

101. Subsection 14(6) imposes a requirement that no thinning is carried out during the 10 years following registration.

Consequence of non-compliance

102. Where a biodiversity certificate has been issued for the project, failure to comply with a requirement imposed for the purposes of paragraph 45(3)(a) is contravention of a civil penalty provision (see subsection 46(1) of the NR Act). This will ensure that the project proponent is required to comply with the requirements in subsections 14(2), (4), (5) and (6) even after a biodiversity certificate has been issued for the project.

Section 15 – Activity period

103. Paragraph 45(1)(i) of the NR Act allows for a methodology determination to set an activity period for biodiversity projects covered by the methodology determination and provide for such a period to be worked out.
104. Section 15 clarifies, for the purposes of paragraph 45(1)(i) of the NR Act, that there is no activity period for the purposes of the RNF Methodology.
105. However, consistent with section 10 above, it is intended that project outcome for a replanting project will be achieved within 25 years after the initial plantings.

Section 16 – Prohibited activities

106. Paragraph 45(3)(b) of the NR Act provides that a methodology determination may impose on the project proponent of a registered biodiversity project that is covered by the methodology determination specified requirements to ensure that specified activities are not carried out, by the project proponent or any other person, in the project area.
107. Section 16 of the RNF Methodology is made for the purposes of paragraph 45(3)(b) of the NR Act and has the effect that the project proponent of a replanting project under

the RNF Methodology must ensure that the following activities are not carried out in the project area:

- a. activities that involve the destruction or removal, including by harvesting, of native plant biomass including woody debris and standing dead trees, rocks and soil, fruits, nuts or seeds other than permitted activities;
- b. activities that involve the disposal, dumping or burning of rubbish;
- c. activities that involve ground and rock disturbance, including ploughing or ripping.

108. However, the above activities can still be carried out to the extent that is necessary for the purposes of carrying out project activities. For example, ploughing or ripping may be necessary as part of undertaking site preparations for environmental plantings – in which case those activities are permitted, but only to the extent necessary to undertake the relevant plantings.

109. In addition, the following activities are permitted activities that can be carried out in the project area:

- a. activities that involve the removal of no more than 10% of fallen timber in a calendar year for personal use – but only after the project has been registered for 10 years; and
- b. activities that involve thinning across no more than 10% of any activity area for ecological purposes – but only after the project has been registered for 10 years; and
- c. activities that involve the removal of fruits, nuts or seeds (whether for personal or commercial purposes) – provided that no more than 10% of the fruits, nuts or seeds of any native species in an activity area are removed in a calendar year; and
- d. activities that are consistent with traditional Indigenous practices or native title rights under the *Native Title Act 1993*.

110. Where a biodiversity certificate has been issued for the project, failure to comply with a requirement imposed for the purposes of paragraph 45(3)(b) is contravention of a civil penalty provision (see subsections 46(1) and 46(2) of the NR Act). This will ensure that the project proponent is required to comply with the requirements in section 16 even after a biodiversity certificate has been issued for the project.

Section 17 – Environmental planting

111. As noted above, section 14 of the RNF Methodology has the effect that the primary activity that must be carried out for the purposes of a replanting project is environmental plantings on land within the project area. Sections 17 and 22 (below) clarifies that such

plantings can only be undertaken in the parts of the project that are designated as activity areas.

112. Section 17 of the RNF Methodology defines the term *environmental planting* for the purposes of this instrument. This means that only plantings that meet the definition in section 17 will be able to be carried out as project activities for the purposes of a replanting project that is covered by the RNF Methodology.
113. Under subsection 17(1), an *environmental planting* is a planting of one or more species in an activity area or sub-area that meets all of the following criteria:
- a. the species are native to the local area; and
 - i. the term *local area* is defined in section 5, in relation to an activity area or sub-area and its reference ecosystem, as any area of land that:
 - I. is within the same Interim Biogeographic Regionalisation for Australia (IBRA) sub region as the activity area or sub-area; and
 - II. either is within 100 km of the activity area or sub-area; or has the same reference ecosystem as the activity area or sub-area.
 - b. the species are appropriate to the biophysical characteristics of the activity area or sub-areas; and
 - c. the planting introduces an appropriate combination of species from the canopy layer, mid-storey layer and ground layer that collectively are capable of achieving forest cover within 25 years after the initial planting; and
 - i. the term *canopy layer* is defined in section 5 as meaning, in a forest or woodland, the tree layer;
 - ii. the term *mid-storey layer* is defined in section 5 as meaning the assemblage of trees, shrubs and vines at a particular site, other than the plants that form part of the canopy or ground layers. For the avoidance of doubt, vines are considered to be part of the canopy layer where they are found in the crowns of canopy trees;
 - iii. the term *ground layer* is defined in section 5 as meaning the assemblage of grasses and other herbaceous vascular plants, woody plants less than 1 metre tall and vines (woody and non-woody) whose highest point is within 1 metre of the land surface, but does not include cryptogamic soil crusts and non-vascular plants such as mosses.
 - d. the planting is likely to result in a structure and composition of a forest that is consistent with the reference ecosystem for the activity area or sub-area; and

- e. the planting is carried out through direct seeding, broadcast seeding, the establishment of a tube stock, or a combination of these methods; and
 - f. the planting is consistent with the nominated restoration targets for the activity area.
 - i. Section 39 of the RNF Methodology deals with nominating restoration targets for indicators for ecosystem condition.
114. Subsection 17(2) clarifies that environmental planting includes staggered plantings if the project proponent considers that it would be beneficial to plant at intervals during the life of the replanting project in order to achieve the project outcome.
115. Subsection 17(3) further clarifies that environmental planting includes remedial plantings where:
- a. an event occurs (whether by a natural disturbance or as a result of conduct by the project proponent or another person) that either reduces the likelihood of the project outcome being met, or involves a reversal of the project outcome; and
 - b. the project considers remedial plantings necessary in order to respond to the event or to achieve the biodiversity outcome.

Division 2.3 – Land and location

Section 18 – Project area must be in eligible region and include eligible land

116. Section 18 of the RNF Methodology has the effect that the project area for a replanting project must be wholly located in one or more eligible regions, and must include eligible land.
117. The term *eligible region* has the meaning of that term in Schedule 1. Schedule 1 to the RNF Methodology makes it clear that an eligible region must be both:
- a. an IBRA subregion; and
 - b. included in the list of eligible IBRA subregions specified in Schedule 1.
118. This means that a biodiversity project covered by the RNF Methodology can only be registered if the Regulator is satisfied that the project area for the project is located wholly in one or more IBRA subregions that are listed in Schedule 1.
119. These eligible regions have been selected because they reflect modified landscapes that have historically experienced widespread clearing of native vegetation. Areas of remnant vegetation have often been degraded by uses such as forestry and agriculture, pressures such as pests and weeds, and can suffer from low levels of ecological

connectivity. Accordingly, these regions are considered appropriate for a replanting project under the RNF Methodology.

120. *IBRA* (short for Interim Biogeographic Regionalisation for Australia) means version 7.0 of the geospatial database (including maps) of that name, published by the Department, and freely accessible on the Department's website (dceew.gov.au), as existing from time to time. This database is being incorporated into the RNF Methodology as existing from time to time, in reliance on subsection 45(10) of the NR Act. Subsection 45(10) of the NR Act provides that, despite subsection 14(2) of the *Legislation Act 2003* (Legislation Act), a methodology determination may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.
121. It is appropriate for the IBRA database to be incorporated into the RNF Methodology as existing from time to time, as it is subject to regular updating as the state of the ecosystems in each region of Australia change. IBRA 7.0 classifies Australia's landscapes into 89 large geographically distinct bioregions based on common climate, geology, landform, native vegetation and species information. It further separates regions into 419 subregions based on finer scale attributes and relationships of those characteristics. The use of IBRA is appropriate in this context as it represents a nationally consistent classification framework based on abiotic and biotic factors influencing biodiversity distribution, as opposed to administrative or other boundaries (e.g. NRM regions, local government areas).
122. The two-step test for *eligible region* in Schedule 1, read with subsection 18(1), means that if an IBRA subregion is removed from the database, that subregion automatically stops being an eligible region for new projects under the RNF Methodology. Conversely, if a new IBRA subregion is added to the database, that subregion does not automatically become an eligible region for new projects under the RNF Methodology unless the list of specified subregions in Schedule 1 is updated to include the new subregion.
123. The term *eligible land* is defined in section 19 below.

Section 19 – Meaning of *eligible land*

124. As noted above, section 18 of the RNF Methodology has the effect that the project area for a replanting project covered by the RNF Methodology must include eligible land. This is because land that is not eligible land cannot be part of an activity area (see section 22).
125. Section 19 of the RNF Methodology determination defines the term *eligible land* for the purposes of this instrument.
126. To be *eligible land*, land must meet all of the following requirements:

- a. At the time the application for approval of registration for the project is made, the land must not have forest cover (defined at the 10m x 10m scale); and
 - i. The term *forest cover* is defined in section 5 as meaning that land has forest cover if the vegetation on the land includes trees and shrubs that are 2 metres or more in height, and provide crown cover of at least 20% of the land.
- b. The land must have been comprehensively cleared at least 7 years before the application is made (or, if there has been a change of ownership in the previous 7 years, at least 5 years before the application was made); and
- c. Prior to being comprehensively cleared, the land must have supported, or be likely to have supported, native woody vegetation that provided forest cover across the entirety of the area, defined at 0.2 hectare scale; and
- d. Any native vegetation on the land must not have been damaged or destroyed by mechanical or chemical means in the 3 years prior to the application being made; and
- e. At the application date, the land must have forest cover potential; and
 - i. The term *forest cover potential* is defined in section 5 as meaning that land has forest cover potential if it is likely to be able to support trees and shrubs that are from the reference ecosystem identified as applicable for the land, are over 2 metres in height, and provide crown cover equal to or greater than 20%, defined at the 0.2 hectare scale.
- f. At the application date, the land must not contain existing woody biomass unless all of the following are met:
 - i. the species are native to the local area and are consistent with the reference ecosystem for the area; and
 - ii. the stems of any trees and shrubs have a diameter of less than 5 cm at breast height; and
 - iii. the density of saplings of native canopy tree species more than 50 cm tall is no more than 3 stems per 10m x 10m of land.

127. Subsection 19(5) has the effect that there are two circumstances where land will be taken to have been comprehensively cleared.

128. The first is where, at a particular time within 15 years before the application date, the canopy layer of native trees had been removed by mechanical or chemical means from at least 90% of the land, defined at 10m x 10m scale.

129. The second is where, at a particular time more than 15 years before the application date, all of the following criteria are met:
- a. there is no canopy layer of native trees on at least 90% of the land, defined at 10m x 10m scale; and
 - b. the reference ecosystem for the land generally has forest cover across its natural distribution; and
 - c. having regard to relevant characteristics of the land, including its soil type, slope and aspect, the land has forest cover potential.
130. It is necessary to cover these two scenarios, as it may be difficult to demonstrate that canopy cover was removed by mechanical or chemical means if this clearing occurred more than 15 years ago. This is because the advances in remote technology in remote technology generally available now were not available at that time.

Section 20 – Project area boundaries

131. Section 20 requires the boundaries of the project area to be mapped in accordance with the Mapping Guidelines.
132. The *Mapping Guidelines* are defined in section 5 of the RNF Methodology as the document of that name published on the Department’s website for the purposes of the Act, as it exists from time to time.
133. The Mapping Guidelines are incorporated into the RNF Methodology as existing from time to time. This is in reliance on subsection 45(10) of the NR Act, which provides that, despite subsection 14(2) of the Legislation Act, a methodology determination may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.
134. It is appropriate for the Mapping Guidelines to be incorporated into the RNF Methodology as existing from time to time, as these guidelines are subject to regular updates due to advances in mapping technologies. Requiring project proponents to use the most up to date mapping technologies whenever they need to map project boundaries will allow for a more accurate assessment of the project’s progress against the project outcome which will, in turn, both ensure better environmental outcomes and make it clearer when compliance action may need to be taken. The Mapping Guidelines are freely accessible on the Department’s website (www.dcceew.gov.au)

Division 2.4 – Stratification of the project area

Section 21 – Initial stratification of project area

135. Section 21 of the RNF Methodology deals with stratification of the project area. Stratification supports consistent project monitoring and reporting by allowing data to be collected and reported using permanent sampling plots within activity areas.
136. Subsection 21(1) requires the project proponent for a replanting project to stratify the project area for the project by dividing it into activity areas and exclusion areas.
137. An *activity area* is an area within the project area where the activities of the project are proposed to be carried out and must be eligible land (see section 22). An exclusion area is an area within the project area that is not an activity area (see section 23).
138. Subsection 21(2) requires the project proponent to also divide an activity area into sub-areas where this is necessary to identify the reference ecosystem or reference ecosystems for the activity area (in accordance with section 44). It will be necessary to divide an activity area into sub-areas if those sub-areas have different reference ecosystems (though from the same major vegetation group).
139. The note before section 21 explains that, in practice, activity areas are likely to be settled by the project proponent in conjunction with the making of the starting state assessment. Originally proposed activity areas may need to be revised as the assessments are made of the qualities that relate to the requirements of this Division. For instance, all land in an activity area must have the same starting ecosystem condition state (see section 22); the starting ecosystem condition state will be assessed as part of the starting state assessment.

Section 22 – Requirements for activity areas

140. Section 22 of the RNF Methodology sets the requirements for activity areas.
141. To be designated as an activity area, an area of the project area must meet all of the following requirements:
 - a. it must consist only of eligible land; and
 - b. it must be an area of the project area on which the project proponent proposes to carry out environmental plantings in the area as part of the replanting project; and
 - c. it must not include any 10m x 10m area of land within the area that meets any of the following:
 - i. land where no environmental plantings are proposed for the purposes of the replanting project; or
 - ii. land that has forest cover; or
 - iii. land that does not have forest cover potential; or

iv. land that is excluded water.

I. Excluded water is defined in subsection 22(11) as meaning inland water or sea, including mangrove areas, but does not include ephemeral or vegetated (palustrine) wetlands (such as riparian areas, floodplains, swamps and marshes), or coastal land on the landward side of the low water mark.

- d. it must have the same starting ecosystem condition state across the whole activity area; and
- e. it must have either the same reference ecosystem or be divided into sub-areas that all have a reference ecosystem from the same major vegetation group; and
- f. it must be the subject of proposed environmental plantings with the same nominated restoration target level; and
- g. it must be at least 0.2 hectares.

142. In addition to the above:

- a. an activity area may consist of a single contiguous area, or multiple disconnected areas; and
- b. the activity areas together must be at least 5 hectares; and
- c. any 900 square metre section of an activity area, or a group of contiguous activity areas, must have an average width of at least 30 metres, measured on the narrowest side.
 - i. However, there is an exception to this requirement for an activity area, or group of contiguous activity areas, that directly adjoins inland water, native forest, or an area that has been planted and has forest cover potential. In that circumstance, any 900square metre section of the area must have an average width of at least 10 metres, measured on the narrowest side. This exception is intended to cover activity areas that adjoin river bends with odd shapes, and similar.

143. Project proponents will need to ensure that, when they stratify the project area, all activity areas meet these requirements.

Section 23 – Exclusion areas

144. Section 23 requires that a part of the project area that is not an activity area must be designated an exclusion area. Project activities cannot be undertaken on an exclusion area.

Section 24 – Stratification boundaries

145. Section 24 requires the boundaries of each activity area (including any sub-areas) and each exclusion area to be mapped in accordance with the Mapping Guidelines.
146. The *Mapping Guidelines* are defined in section 5 of the RNF Methodology as the document of that name published on the Department’s website for the purposes of the Act, as it exists from time to time.
147. The Mapping Guidelines are incorporated into the RNF Methodology as existing from time to time. This is in reliance on subsection 45(10) of the NR Act, which provides that, despite subsection 14(2) of the Legislation Act, a methodology determination may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.
148. It is appropriate for the Mapping Guidelines to be incorporated into the RNF Methodology as existing from time to time, as these guidelines are subject to regular updates due to advances in mapping technologies. Requiring project proponents to use the most up to date mapping technologies whenever they need to map activity areas will allow for a more accurate assessment of the project’s progress against the biodiversity outcome for the project which will, in turn, both ensure better environmental outcomes and make it clearer when compliance action may need to be taken. The Mapping Guidelines are freely accessible on the Department’s website (www.dcceew.gov.au).

Division 2.5 – Starting state assessment (SSA)

Section 25 – References to activity areas and project outcomes

149. Section 25 of the RNF Methodology is an interpretation provision. It provides that, for the purposes of Division 2.5 (relating to starting state assessment):
- a. a reference to an activity area includes a reference to a proposed activity area; and
 - b. a reference to a project outcome includes a reference to a proposed project outcome.
150. This interpretation provision is a drafting mechanism to simplify drafting in the instrument. The substantive requirements of Division 2.5 remain unchanged.

Section 26 – Starting state assessment and site assessment report

151. Section 26 of the RNF Methodology requires the project proponent for a replanting project covered by the RNF Methodology to make an assessment, in accordance with Division 2.5 (sections 25 to 35), of the project area as it stands when the application for approval of registration is made.

152. This assessment is known as the starting state assessment.
153. The starting state assessment is a requirement of section 8 of the BAI.
154. It is intended that the starting state assessment will generally underpin the design of the project, as well as provide the critical data needed both to comply with the requirements of the BAI, and for the Regulator to satisfy themselves whether the criteria for approving the project's registration is satisfied.
155. 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 NR 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. establish the permanent sampling points in each activity area;
 - g. assess the starting ecosystem condition state for the project area or, where relevant, for each activity area;
 - h. determine the starting values for each indicator for ecosystem condition;
 - i. assess the risk to the biodiversity outcome posed by the impact of threats;
 - j. assess the risk posed to the project by the reasonably expected effects of climate change, including identifying any areas particularly vulnerable to such risks;
 - k. understand the likelihood of threatened species or ecological communities occurring in the project area;
 - l. plan any management actions that will be required to address any risks to the biodiversity outcome being achieved;
 - m. identify if there are any legal encumbrances within the project area, such as sites of cultural heritage, covenants or other legal interests;

- n. 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.
156. Sections 27 to 34 below sets out the specific requirements relating to assessing these matters as part of the starting state assessment.
157. Subsection 26(2) requires the project proponent to prepare a report relating to the starting state assessment. This report must:
- a. include the matters mentioned in section 35 below (contents of site assessment report); and
 - b. demonstrate that the starting state assessment complied with the requirements in, relevantly, sections 27 to 34.
158. Subsection 26(3) requires that the starting state assessment must include a field survey, which is an assessment of the project area undertaken by visiting the site. The field survey must be undertaken at, or as close as practicable to, the time of optimal plant growth for the relevant Natural Resource Management region, in order to maximise potential to identify species.
159. Under subsection 26(4), the field survey must cover:
- a. each activity area; and
 - b. where possible, a buffer area of at least 500 metres in width around the perimeter of each activity area.
160. 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.
161. Subsections 26(5) and (6) deal with who must undertake the starting state assessment and prepare the site assessment report.
162. The field survey, and the ecosystem assessment process described in section 30, must be undertaken by a suitably qualified person.
163. The remainder of the starting state assessment, and the preparation of the site assessment report, must be either undertaken by a suitably qualified person, or certified by a suitably qualified person.

164. This is intended to ensure the accuracy of any data, interpretations of data, or conduct of ecological processes that form part of the project plan or the basis for proposals in the project plan. A *suitably qualified person* is defined in section 5 of the RNF Methodology as a person who:
- a. has an appropriate qualification in ecology or botany, or in another subject relevant to the replanting project; and
 - b. has at least 3 years post-qualification experience working as an ecologist or botanist, or in another profession relevant to the replanting project; and
 - c. has worked as an ecologist or botanist, or in another profession relevant to the project, within the previous 3 years.
165. The suitably qualified person who undertakes, or certifies, the starting state assessment or part of the starting state assessment (and the site assessment report) may be the project proponent if they have the appropriate qualifications or experience, or it could be a person with such qualifications or experience the project proponent has employed or engaged for the purposes of the starting state assessment.

Section 27 – Assessment of the eligibility of the land

166. Section 27 of the RNF Methodology requires that, as part of the starting state assessment, the project proponent for a replanting project must make an assessment of the project area and each activity area to:
- a. confirm that the project area complies with Division 2.3 (relating to the land and location of the project area); and
 - b. confirm that each activity area consists only of eligible land (within the meaning of section 19); and
 - c. identify and describe any covenants or other legal interests that apply to each activity area.
167. The purpose of this requirement is to ensure that the stratification of the project area (see section 21 above) complies with the RNF Methodology. In practice, activity areas are likely to be settled by the project proponent in conjunction with the starting state assessment. Originally proposed activity areas may need to be revised as the assessments are made of the qualities of those areas against the requirements for activity areas in the RNF Methodology.

Section 28 – Engagement with relevant Indigenous representatives

168. Section 28 of the RNF Methodology deals with Indigenous engagement in the context of the starting state assessment.

169. Subsections 28(1) requires that, as part of the starting state assessment, the project proponent for a replanting project covered by the RNF Methodology must identify any areas within the project area that are subject to Indigenous land interests.
170. The term *subject to Indigenous land interests* is defined in section 5 as meaning 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.
171. If the project proponent identifies that any area in the project area is subject to Indigenous land interests, subsection 28(2) requires the project proponent to engage appropriately with the relevant Indigenous representatives for the project area in relation to the design and implementation of the replanting project, including in relation to the following:
- a. the planning and conduct of the initial field survey;
 - b. using Indigenous knowledge and values, or Indigenous data (including any data generated during the planning or implementation of the replanting project) relating to enhancing or protecting biodiversity in native species, in a culturally appropriate way;
 - c. identifying whether there are areas within the project area that are considered culturally sensitive or significant to relevant Aboriginal persons or Torres Strait Islanders.
172. If the proponent finds information on a cultural heritage register that interacts with the project area, the proponent must comply with the relevant national, state or local jurisdiction's requirements to protect the cultural heritage values of the site.
173. In addition to complying with such obligations relating to cultural heritage under national, state and local regulations, it is strongly recommended that the proponent make efforts to identify and engage with the relevant Aboriginal persons or Torres Strait Islanders about the cultural heritage entry, before completing the project plan.
174. This engagement is recommended to discuss aspects relating to project design and implementation to minimise cultural harm. For example, this might result in excluding areas of cultural heritage from the project area, adjusting random sampling site or photo

monitoring point locations to avoid cultural heritage sites, or timing of the project activities in respect to cultural matters. Incorporation of any Indigenous knowledge, values or Indigenous data must be in line with knowledge consent requirements and accompanied by evidence of appropriate attribution and consent for use of the knowledge, in accordance with section 29. Adjustments to a project design and implementation in relation to information on cultural heritage may be reflected as demonstrating culturally informed project design in the project plan.

175. The term *relevant Indigenous representatives*, for a project area, is defined in section 5 (see above).
176. Subsections 28(1) and (2) are intended to comply with subsection 6(3) of the BAI. The purpose of these requirements 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.
177. What constitutes ‘appropriate engagement’ may differ, depending on the preferences of the relevant Indigenous representatives. 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. 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.
178. 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.
179. 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.
180. 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.

181. Subsection 28(3) makes it clear that even if there are not any Indigenous land interests in the project area, the project proponent may engage with relevant Aboriginal persons or Torres Strait Islanders for the project area in relation to the design and implementation of the replanting project, in the way set out subsection 28(2).
182. The term relevant Aboriginal persons or Torres Strait Islanders, for a project area, is defined in section 5 as meaning 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.
183. This is intended to comply with subsection 6(1) of the BAI and clarifies that voluntary engagement with Aboriginal persons or Torres Strait Islanders for the project area is encouraged.
184. The use of any Indigenous knowledge, values or data arising from Indigenous engagement under section 28 (including in the context of nominating a culturally significant entity to assess as part of the project) will need to comply with section 29.

Section 29 – Use of Indigenous knowledge and values or Indigenous data

185. Section 29 of the RNF Methodology deals with the use of Indigenous knowledge, values or data. This provision applies where:
 - a. it is proposed that replanting project that is covered by the RNF Methodology will include, 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.
186. This includes, but is not limited to, where the project proponent proposes to nominate, under section 41, a culturally significant entity to assess as part of the project.
187. In this circumstance, the project proponent for the project must, as part of the starting state assessment:
 - a. provide evidence that they have obtained the appropriate attribution for, and consent for the use of, the knowledge, values or data; and

- b. provide evidence that culturally appropriate approaches are being used for the collection, interpretation, use, recording and governance of that knowledge or those values; and
 - c. provide information relating to how the project design and implementation includes or is informed by the knowledge, values or data.
188. 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 consents and attributions. This includes the storage and protection of that knowledge or those values.
189. This requirement will apply to the use of Indigenous knowledge, values or data arising out of engagement that is required, or is undertaken voluntarily, under section 28 or otherwise.
190. 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. 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 Clean Energy Regulator, and what goes on the public Register. 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.

Section 30 – Ecosystem assessment

191. Section 30 of the RNF Methodology sets requirements relating to assessing the ecosystem condition as part of the starting state assessment for replanting projects covered by the RNF Methodology.
192. Subsection 30(1) requires the project proponent, as part of the starting state assessment to do the following for each activity area:
- a. identify and describe the reference ecosystem or ecosystems for the activity area in accordance with Division 2.8;
 - i. a *reference ecosystem*, in relation to an activity area or sub-area, is defined in section 5 to mean an ecosystem that will serve as the model or benchmark for restoration, against which to compare the ecosystem condition of the activity area or sub-area;
 - ii. an activity area may consist of sub-areas where there are different reference ecosystems identified for the different sub-areas, provided those reference ecosystems are from the same major vegetation group;

- iii. section 46 sets out the process and requirements for identifying and describing the reference ecosystem for an activity area or sub-area; and
- b. for each reference ecosystem, and for each indicator or sub-indicator, either:
 - i. select the appropriate benchmark value from the Approved benchmark source list (if it gives one, and if so, if that is appropriate); or
 - ii. establish a benchmark value in accordance with Schedule 2.
- c. establish permanent sampling plots for the activity area in accordance with section 2 of Schedule 5; and
- d. take 6 photos of each permanent sampling plot in accordance with section 3 of Schedule 5: and
- e. determine the value of each indicator for the ecosystem condition of the activity area (the starting value of the indicator) in accordance with items 5 to 10 of Schedule 5; and
 - i. the starting values for each indicator represent the ecosystem condition in the activity area at the start of the project, at the indicator level.
- f. determine the starting ecosystem condition state of the activity area in accordance with item 11 in Schedule 5;
 - i. the starting ecosystem condition state represent the ecosystem condition in the activity area at the start of the project and is relevant to the restoration target level that can be nominated for the activity area (see section 39);
 - ii. there are four possible starting ecosystem condition states (see section 12): State A (living ground layer has high consistency with reference ecosystem), State B (living ground layer is dominated by a simple mix of native species), State C (uncultivated land where the living ground layer is dominated by species that are not native to the local area) or State D (land cultivated in the last 5 years);
 - iii. the note following paragraph 30(1)(f) explains that the whole of an activity area must have the same starting ecosystem condition state, and refers the reader to subsection 22(8).

193. Subsection 30(2) requires the project proponent, as part of the starting state assessment, to calculate the following scores for each activity area:

- a. the starting ecosystem condition score for the activity area; and
 - b. the forecast ecosystem condition score for the activity area; and
 - c. the starting contribution to biodiversity persistence score for the activity area; and
 - d. the forecast contribution to biodiversity persistence score for the activity area.
194. These scores must be calculated in accordance with the process in Schedule 8.
195. The starting ecosystem condition score represents the ecosystem condition in each activity area at the start of the project, based on the starting ecosystem condition state. The forecast ecosystem condition score represents the predicted improvement in ecosystem condition to be achieved by the project in 25 years for each activity area, as a result of the activities of the project, based on the nominated restoration target level . Ecosystem condition scores for each activity area are aggregated to provide a single score for the project. NBAS is used to provide a nationally consistent approach to assigning condition scores (e.g. that range from 0 to 1) that enables comparison of projects that involve different activities in different ecosystem types and in different locations across Australia.
196. Contribution to biodiversity persistence scores provide a consistent way to compare Nature Repair Market projects that involve different activities in different ecosystem types and in different locations across Australia. They are assessed as a function of the change in ecosystem condition expected at project level, the contribution of the project to enhancing connectivity across the broader landscape, and the conservation significance of the ecosystem type. Biodiversity persistence refers to the continued survival of species, ecosystems or other biodiversity elements over time. It is a measure of the likelihood that the elements making up biodiversity (e.g. species) will continue to exist without significant loss or decline, both now and into the foreseeable future.
197. Subsection 30(3) requires the project proponent, as part of the starting state assessment, to calculate the following scores for the project as a whole:
- a. the starting aggregate ecosystem condition score for the project; and
 - b. the forecast aggregate ecosystem condition score for the project; and
 - c. the starting aggregate contribution to biodiversity persistence score for the project; and
 - d. the forecast aggregate contribution to biodiversity persistence score for the project.
198. These scores must be calculated in accordance with the process in Schedule 8.

199. The aggregate ecosystem condition score is a single score for the project. 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.
200. The note at the beginning of section 30 explains that the ecosystem assessment in this section must be done by a suitably qualified person and refers the reader to subsection 26(5).

Section 31 – Assessment of historic drivers of change

201. Section 31 of the RNF Methodology requires that, as part of the starting state assessment, the project proponent must make an assessment of the relevant historic drivers of change associated with biodiversity in native species in the project area.
202. This is a requirement of paragraph 8(2)(a) of the BAI. 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.
203. Subsection 31(2) requires that the assessment of relevant historic drivers of change must be informed by, but is not limited to:
 - a. any clearing that was undertaken in any of the activity areas within the 10 years prior to the date of the assessment; and
 - b. any damage or destruction of native vegetation by mechanical or chemical means undertaken in any of the activity areas within the 3 years prior to the date of the assessment; and
 - c. any cultivation or other activities involving significant soil disturbance in any of the activity areas within the 3 years prior to the date of the assessment; and
 - d. any natural disturbances (such as fire, flood or drought) that have materially affected the condition of the ecosystem or ecosystems of any of the activity areas within 10 years prior to the date of the assessment. Here, the ecosystem or ecosystems referenced are those present immediately prior to the relevant disturbance.
204. Subsection 31(3) clarifies the methods for assessing the historic drivers of change in biodiversity in native species in the project area. This assessment must include visual inspection of the project area using remote imagery and on-ground inspection of the project area. However, this does not prevent the project proponent from also using other

methods that the project proponent considers appropriate for this purpose, in the context of their specific project.

Section 32 – Assessment of the project context

205. Section 32 of the RNF Methodology requires that, as part of the starting state assessment, the project proponent must also identify and describe each of the following:
- a. any potential threats to the project outcome being achieved;
 - i. section 34 sets out further information on the kinds of potential threats that need to be covered in the starting state assessment.
 - b. any parts of the project area 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 project outcome being achieved;
 - i. This requirement is intended to comply with subsection 8(1) of the BAI. Section 42 sets out requirements for the project plan to address the risks to the project outcome from the reasonably expected effects of climate change, including to any areas identified, in the starting state assessment, as vulnerable.
 - c. any significant hydrological features within the activity area, and in the surrounding landscape, that may affect, or be affected by, the project activities;
 - i. The note following paragraph 32(c) explains that examples of such significant hydrological features include flood prone areas and features that materially affect plant water availability.
 - d. any threatened species or ecological communities that occur, or are likely to occur, within the activity area and in the surrounding landscape; and
 - i. Section 40 sets out requirements for the project plan to include a description of any measures that are proposed to be taken for the purposes of conserving, or promoting the recovery of, threatened species or ecological communities that are identified as part of the starting state assessment as occur, or likely to occur, within each activity area and in the surrounding landscape.
 - e. any areas within the activity area that contain native trees and shrubs that have stems with a diameter at breast height of less than 5 centimetres and have regenerated from natural sources (soil seed stock, root stock or lignotubers).
 - i. The project proponent must record appropriate age and approximate number of such plants of each species or genus.

206. These matters are relevant to the Regulator’s assessment of whether the project outcome is likely to be achieved. In addition, detailed assessment of project context ensures the biodiversity values of the project area are appropriately and accurately characterised. This is used to inform project design ensuring planting activities do not have a significant adverse impact on protected matters within or outside the project area.

Section 33 – Relevant data and information for the assessment

207. Paragraphs 8(2)(b) and (c) of the BAI have the combined effect that a methodology determination must specify whether there are particular kinds of information that must inform the starting state assessment and if so, what kinds of information.
208. Section 33 of the RNF Methodology complies with the requirements in paragraphs 8(2)(b) and (c) of the BAI by specifying the kinds of information that must inform the starting state assessment, or particular parts of the starting state assessment.
209. Subsection 33(1) applies to the whole of the starting state assessment. It requires that the starting state assessment must be informed by each of the following:
- a. data obtained from the permanent sampling plots established in each activity area;
 - b. data obtained from virtual (desktop) assessments (using remote imagery) of the project area and any other areas covered by the field survey; and
 - c. data obtained from the field survey.
210. Subsection 33(2) applies to the assessment, under paragraph 32(a), of potential threats to the project outcome being achieved in the activity area or the surrounding landscape. This assessment must also be informed, where relevant, by records of pest treatments from the past 10 years.
211. Subsection 33(3) applies to the assessment, under paragraph 32(b), of whether there are any areas of the project area that are vulnerable to the reasonably expected effects of climate change. This assessment must also be informed, where relevant, by regionally relevant information for determining potential future climate change effects.
212. Subsection 33(4) applies to the assessment, under paragraphs 32(c) and (d), of:
- a. significant hydrological features within the activity area, and in the surrounding landscape, that may affect, or be affected by, the project activities; and
 - b. threatened species or ecological communities that are occurring, or are likely to occur, in the activity area or surrounding landscape.
213. This assessment must be informed, where relevant, by information from the Protected Matters Search Tool, which is published by the Department and is freely accessible on the Department’s website (www.dcceew.gov.au), as it exists from time to time. This

tool provides an important source of information about matters protected at the Commonwealth level. Separate research may be needed to identify matters protected under State and Territory laws.

214. The Protected Matters Search Tool is a database that is incorporated into the RNF Methodology as existing from time to time. This is in reliance on subsection 45(10) of the NR Act, which provides that, despite subsection 14(2) of the Legislation Act, a methodology determination may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.
215. It is appropriate for the Protected Matters Search Tool to be incorporated into the RNF Methodology as existing from time to time, as this tool is subject to regular updates due to both changes in known location and habitat for threatened species and ecological communities, and advances in the scientific (ecological) processes from which that data is obtained. Requiring project proponents to use the most up to date search tool will mean that their assessment of the extent to which threatened species and ecological communities are occurring, or are likely to occur, in each activity area and the surrounding landscape will be more accurate and fit for purpose. It will also allow for a more accurate assessment of the project's progress against the biodiversity outcome for the project which will ensure better environmental outcomes.
216. Subsection 33(5) applies to the requirement in paragraph 27(b) for the project proponent to identify covenants and other legal encumbrances that apply to the project area, or part of the project area. This part of the starting state assessment must also be informed by:
 - a. a search of the applicable land title register; and
 - b. a search of any applicable state or territory register relating to cultural heritage;
 - c. a search of the Register established under the *Carbon Credits (Carbon Farming Initiative) Act 2011*; and
 - d. a signed statement from the owner of the land (if relevant and available).

Section 34 – Threats to success of the replanting project

217. Section 34 of the RNF Methodology provides further information relating to the kinds of potential threats to the project outcome the project proponent must identify and describe as part of the starting state assessment (see paragraph 32(a)).
218. The project proponent of a replanting project covered by the RNF Methodology must, as part of the starting state assessment, identify and describe potential threats to the project outcome of the following kinds that are located within each activity area or in the surrounding landscape:
 - a. non-native plant and animal species; and

- b. contaminants (including, but not limited to, biological and chemical contaminants) and contaminant sources; and
- c. significant natural disturbances (including wildfire, drought, flood or disease).

Section 35 – Content of the site assessment report

219. Section 35 of the RNF Methodology prescribes the matters that must be included in the site assessment report of the starting state assessment.

220. Subsection 35(1) provides that the site assessment report for a replanting project covered by the RNF Methodology must include all of the following information, and supporting evidence:

- a. details of the project area. These details must include the name and address of the property or properties included in the project area, and the lot and file numbers of the land parcels included in the project area; and
- b. a map of the project area that show the activity areas (and any sub-areas) and is consistent with the Mapping Guidelines; and
- c. details of how each activity area satisfies the criteria for an activity area and the data relied upon to establish this; and
- d. a description of any engagement with relevant Indigenous representatives or other relevant Aboriginal persons or Torres Strait Islanders for the project area that was undertaken for the purposes of section 28; and
- e. any areas of the project area that have been identified as being subject to Indigenous land interests or as a culturally sensitive area; and
- f. a description of any other engagement with relevant Aboriginal persons or Torres Strait Islanders for the project area that was undertaken as part of the starting state assessment (including in relation to culturally significant entities); and
- g. for each activity area:
 - i. the starting ecosystem condition state; and
 - ii. the starting values for each indicator for ecosystem condition; and
 - iii. the starting ecosystem condition score; and
 - iv. the forecast ecosystem condition score; and
 - v. the starting contribution to biodiversity persistence score; and

- vi. the forecast contribution to biodiversity persistence score; and
- h. for the replanting project as a whole:
 - i. the starting aggregate ecosystem condition score; and
 - ii. the forecast aggregate ecosystem condition score; and
 - iii. the starting aggregate contribution to biodiversity persistence score; and
 - iv. the forecast aggregate contribution to biodiversity persistence score; and
- i. the data obtained from the assessment that was relied upon to determine the starting ecosystem condition state of each activity area; and
- j. the data obtained from the assessment that was relied upon to determine starting values of each indicator for the ecosystem condition of each activity area; and
- k. for each activity area – the details of the permanent sampling plots established, including the location of each plot, the location of the centre line for each plot, the location of the permanent markers for each plot, a description of how the plots were determined, a map of the activity area that shows the plots and is consistent with the Mapping Guidelines, and the 6 required photos of each plot; and
- l. the reference ecosystem identified for each activity area or sub-area, including details of the process undertaken to identify the applicable reference ecosystem, and the data obtained from this process and relied upon to identify the applicable reference ecosystem; and
- m. the benchmark values for each indicator for ecosystem condition, including how each value was determined and sources used; and
- n. if the benchmark value for indicator was established in accordance with Schedule 2 – evidence demonstrating the process in Schedule 2 was complied with, details of the survey sites used in this process, and justification for why a benchmark value for the indicator or sub-indicator from the Approved benchmark source list was not appropriate; and
- o. details of any of the following that were identified in accordance with the requirements of the starting state assessment:
 - i. any potential threats to the likelihood of the project outcome being achieved; and
 - ii. any significant hydrological features; and

- iii. any threatened species or ecological communities; and
 - iv. the historic drivers of change associated with biodiversity in native species in the project area, including any significant disturbances to any of the activity areas; and
 - v. any natural regeneration; and
 - vi. any covenants or other legal encumbrances; and
- p. a statement that the site assessment report was prepared by, or certified by, a suitably qualified person; and
- q. a statement that the person responsible for undertaking the field survey is a suitably qualified person; and
- r. the names and contact details of the person or persons; and
- s. evidence of their relevant qualifications or experience.
221. Any Indigenous knowledge, values or data included in the site assessment report must be provided in accordance with the consent and permission of the relevant Aboriginal persons or Torres Strait Islanders. This includes the format of the evidence, which may be flexible to suit culturally appropriate forms. For example, audio or written records, photos and visual representations.
222. Subsection 35(2) requires that the data in the site assessment report, and its presentation, to be consistent with the Data Submission Guidelines. The *Data Submission Guidelines* are defined in section 5 of the RNF Methodology as meaning the document of that name published on the Department’s website as it exists from time to time.
223. The Data Submission Guidelines are incorporated into the RNF Methodology as existing from time to time. This is in reliance on subsection 45(10) of the NR Act, which provides that, despite subsection 14(2) of the Legislation Act, a methodology determination may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.
224. It is appropriate for the Data Submission Guidelines to be incorporated into the RNF Methodology as existing from time to time, as these guidelines are subject to regular updates due to advances in data requirements and the scientific (ecological) processes from which the data is obtained. Requiring project proponents to use the most up to date data requirements and scientific processes will allow for a more accurate assessment of the project’s progress against the biodiversity outcome for the project which will, in turn, both ensure better environmental outcomes and make it clearer when compliance

action may need to be taken. The Data Submission Guidelines are freely accessible on the Department's website (www.dcceew.gov.au).

Division 2.6 – Project plan

Section 36 – Requirements for project plan

225. Subsection 45(7) of the NR Act provides that a methodology determination may require that there must be a project plan for a registered biodiversity project that is covered by the methodology determination (paragraph 45(7)(a)), and that the project plan must remain in force until the time ascertained in accordance with the methodology determination (paragraph 45(7)(b)).
226. Section 7 of the NR Act defines a project plan, in relation to a biodiversity project, as a plan that:
- a. sets out how the project is intended to be carried out; and
 - b. sets out how the project is intended to achieve the biodiversity outcome for the project; and
 - c. is consistent with the methodology determination that covers, or is proposed to cover, the project; and
 - d. includes any information specified in the rules or in the methodology determination that covers, or is proposed to cover, the project; and
 - e. complies with any requirements that are specified in the rules or in the methodology determination that covers, or is proposed to cover, the project.
227. Section 36 of the RNF Methodology is made for the purposes of subsection 45(7) of the NR Act, and paragraphs (d) and (e) of the definition of *project plan* in section 7 of the NR Act.
228. Subsection 36(1) requires that, before applying to the Regulator for approval of the registration of a replanting project covered by the RNF Methodology, the project proponent for the project must create a project plan.
229. An important function performed by project plans is the matching of project activities with the biodiversity values and threats at the site, and to ensure that the activities are undertaken using the most effective methods and to an appropriate standard.
230. The project plan must include a program of actions in relation to each activity area of the project that, if implemented, is likely to achieve the project outcome and result in a biodiversity certificate being issued in respect of the replanting project.
231. The project plan must also include the information mentioned in sections 37 to 43 of the RNF Methodology, which contain requirements to include specific information as part

of describing the program of actions mentioned in subsection 36(1). This information is intended to ensure the Regulator can be satisfied as to whether the project is sufficiently likely to achieve the project outcome and therefore result in a biodiversity certificate being issued for the project.

232. Subsection 36(2) requires that the project plan be maintained and in force for the duration of the permanence period for the project.
233. Subsection 36(3) requires that the project plan (including any updates or amendments to the project plan) be prepared or certified by a suitably qualified person.
234. This is intended to ensure the accuracy of any data, interpretations of data, or conduct of ecological processes that form part of the project plan or the basis for proposals in the project plan. A *suitably qualified person* is defined in section 5 of the RNF Methodology as a person who:
- a. has an appropriate qualification in ecology or botany, or in another subject relevant to the replanting project; and
 - b. has at least 3 years post-qualification experience working as an ecologist or botanist, or in another profession relevant to the replanting project; and
 - c. has worked as an ecologist or botanist, or in another profession relevant to the project, within the previous 3 years.
235. Subsection 36(4) requires that the data in the project plan, and its presentation, must be consistent with the Data Submission Guidelines. The *Data Submission Guidelines* are defined in section 5 of the RNF Methodology as meaning the document of that name published on the Department's website as it exists from time to time.
236. The Data Submission Guidelines are incorporated into the RNF Methodology as existing from time to time. This is in reliance on subsection 45(10) of the NR Act, which provides that, despite subsection 14(2) of the Legislation Act, a methodology determination may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.
237. It is appropriate for the Data Submission Guidelines to be incorporated into the RNF Methodology as existing from time to time, as these guidelines are subject to regular updates due to advances in data requirements and the scientific (ecological) processes from which the data is obtained. Requiring project proponents to use the most up to date data requirements and scientific processes will allow for a more accurate assessment of the project's progress against the biodiversity outcome for the project which will, in turn, both ensure better environmental outcomes and make it clearer when compliance action may need to be taken. The Data Submission Guidelines are freely accessible on the Department's website (www.dcceew.gov.au).

Section 37 – Information about activity areas

238. Section 37 of the RNF Methodology sets requirements for the project plan relating to dealing with activity areas.
239. The project plan for a replanting project covered by the RNF Methodology must include the following information about each activity area:
- a. a description of the reference ecosystem that was identified for the activity area, or for any sub-areas in the activity area (see paragraph 30(1)(a) and section 46); and
 - b. the starting ecosystem condition state for the activity area (see paragraph 30(1)(f), the process in Schedule 5 and the definition of starting ecosystem condition state in section 12); and
 - c. the starting values for each indicator for ecosystem condition for the activity area (see paragraph 30(1)(e), the process in Schedule 5 and the specification of indicators for ecosystem condition in section 11); and
 - d. the following details relating to the ecosystem condition in the activity area:
 - i. the number of plant species in the activity area that are subcategory A1, A2 or A3; and
 - I. The terms *subcategory A1 plant*, *subcategory A2 plant* and *subcategory A3 plant* are defined in section 12.
 - ii. the ground cover provided by plant species in the activity area that are subcategory A1, A2 or A3; and
 - iii. the approximate number of native species in the activity area that have stems that have a diameter at breast height of less than 5 centimetres and that have regenerated from natural sources (such as soil seed stock, root stock or lignotubers); and
 - iv. the cover provided by non-native plant species in the activity, by life form such as trees, shrubs, vines and grass; and
 - e. a description of the management history of the activity area, with reference to the historic drivers of change assessed as part of the starting state assessment; and
 - f. the benchmark values for each indicator and sub-indicator for ecosystem condition (see paragraph 30(1)(b) and the specification of indicators and sub-indicators for ecosystem condition in section 11); and
 - g. a description of the permanent sampling plots established in the activity area, including the location of the plots, the location of the permanent markers (this

could include GPS coordinates) for the plots and the location of the centre line of the plots; and

- h. a description of the environmental plantings that are proposed to be carried out in the activity area including a description of the proposed site preparation, the proposed planting method, the target stem density of the plantings, and the species proposed to be planted; and
- i. details of any staggered plantings that are proposed for the activity area; and
- j. a description of the proposed reliance on natural regeneration in the activity area, including the species for which natural regeneration will be relied on, the location and approximate number of such species and evidence that natural regeneration will not be damaged in the implementation of the proposed plantings; and
- k. a description of how any seed is proposed to be harvested for the purposes of seed collection, and whether this harvesting would be consistent with any relevant best practice guidelines; and
- l. a description of:
 - i. any potential threats to the project outcome in the activity area that were identified as part of the starting state assessment (see paragraph 32(a) and section 34);
 - ii. any significant hydrological features within the activity area or in the surrounding landscape that were identified as part of the starting state assessment as potentially affecting, or being affected by, the project activities (see paragraph 32(c));
 - iii. any threatened species or ecological community that were identified as part of the starting state assessment as occurring or likely to be occurring within the activity area or the surrounding landscape (see paragraph 32(d) and section 40);
 - iv. any natural regeneration occurring within the activity area;
 - v. any covenants or other legal interests that apply to the activity area;
 - vi. any culturally sensitive area in the activity area.
- I. The term *culturally sensitive area* is defined in section 5 of the RNF Methodology as an area that is identified as culturally sensitive to relevant Aboriginal persons or Torres Strait Islanders for the project area in accordance with section 28 (Indigenous engagement).

- II. Areas of cultural sensitivity or cultural significance could include but not be limited to; locations of culturally managed trees or scar trees, culturally significant waterholes, cultural stone quarries, middens, songline-related landscape features, rock formations, and rock art sites. These may or may not be listed on a national, state or local cultural heritage register. The culturally sensitive area might include a buffer zone around such sites.
- III. For the avoidance of doubt, areas of cultural sensitivity and significance may also be identified as culturally significant entities for the project, providing all requirements for nominating a culturally significant entity as part of the project, are followed in accordance with section 41.

Section 38 – Indigenous engagement

240. Section 38 of the RNF Methodology sets requirements for the project plan relating to Indigenous engagement.
241. The project plan for a replanting project covered by the RNF Methodology must include a description of any engagement with Aboriginal persons and Torres Strait Islanders that has occurred in relation to the design and proposed implementation of the project (subsection 38(1)).
242. In addition, there are additional requirements that apply where the project will include, or be informed by, Indigenous knowledge or values, or Indigenous data, in relation to the project's design or implementation.
243. Where this is the case, subsection 38(2) has the effect that the project plan must also include the following:
 - a. a description of how the project design and implementation includes or is informed by Indigenous knowledge or values; and
 - b. information, including supporting evidence, that demonstrates that the project proponent has, and will continue to:
 - i. obtain the appropriate attribution for, and consent for the use of, that knowledge or those values; and
 - ii. use culturally appropriate approaches for the collection, interpretation, use, recording and governance of that knowledge or those values.
244. *Indigenous data* is defined in section 5 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.
245. This requirement is intended to comply with subsection 6(4) of the BAI, which requires methodology determinations to include a condition on registration to the effect that 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 the knowledge, values or data; and
 - c. provides information relating to how the project design and implementation includes or is informed by the knowledge, values or data;
246. The requirements in section 38 of the RNF Methodology, and the applicable requirements in the BAI, are intended 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. Engagement will need to be consistent with guidance or aligned with best-practice, Indigenous-led approaches to ensure that appropriate processes are followed when engaging with First Nations peoples, and standards for evidence and transparency are met, consistent with the wishes of the relevant Aboriginal persons and Torres Strait Islanders.
247. What constitutes ‘appropriate engagement’ may differ, depending on the preferences of the relevant Indigenous representatives. 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.
248. It is encouraged that engagement plans are prepared and agreed between the proponent and relevant Aboriginal persons and Torres Strait Islanders. These set out the future points in time in the project when the proponent will engage again with the relevant Aboriginal and Torres Strait Islanders in relation to, where applicable:
- a. using the Indigenous knowledge and values or Indigenous data provided;
 - b. re-confirming consent for use of Indigenous knowledge and values;

- c. demonstrating use, collection and storage of Indigenous data in line with any agreements;
 - d. seeking information and verification of the progress of indicators of culturally significant entities towards the threshold values;
 - e. providing information on progress of the project to meeting the project objectives.
249. An engagement plan helps demonstrate that the relevant Aboriginal persons and Torres Strait Islanders will have the opportunity to re-engage with the proponent on consent and use of Indigenous knowledge throughout the project period, and will aid both parties understand expectations and obligations in relation to the project implementation, and interaction with Indigenous knowledge, values and Indigenous data. When followed, a forward engagement plan may provide a form of evidence of exercising best practice engagement and support obtaining ongoing consent that is free, prior and informed.
250. Another purpose of the requirements in section 38 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 consents and attributions. This includes the storage and protection of that knowledge or those values.
251. This will apply to the use of Indigenous knowledge, values or data arising out of engagement that is required (under subsections 28(1) and (2)), or that is undertaken voluntarily (under subsection 28(3)).
252. 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. Some examples could include being recorded in Indigenous Cultural Intellectual Property agreements, or written statements with clearly identifiable authors (with appropriate authority) or records of board meeting discussions and decisions.
253. 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.

Section 39 – Nomination of restoration targets for ecosystem condition

254. Section 39 of the RNF Methodology sets requirements for the project plan relating to the project outcome and the nomination of restoration targets for each activity area. Restoration targets may reflect enhancement or protection (or both) of biodiversity in native species.

255. Subsection 39(1) requires the project plan for a replanting project covered by the RNF Methodology to include a description of how, based on evidence, the project proponent intends to achieve the project outcome through the project activities within the period of 25 years. This requirement is intended to comply with subsection 18(2) of the BAI.
256. Subsection 39(2) requires that, for each activity area, the project plan for a replanting project covered by the RNF Methodology must nominate the restoration target level that the project is intended to achieve, selected in accordance with Schedule 6.
257. The restoration targets levels are intended to represent the degree of restoration effort required to ensure plantings progress towards the reference ecosystems for the activity area, and to achieve the project outcome (ie the change in ecosystem condition that the replanting project is designed to achieve).
258. Restoration targets must also ensure the land included in activity areas achieves forest cover across the entirety of the activity area, defined at the 0.2 hectare scale, by the end of 25 years.
259. There are 4 restoration target levels, set out in Schedule 6. Project proponents must nominate a restoration target level for each activity area. Once a project proponent has nominated a restoration target level for an activity area, the values for each indicator in that target level will be the nominated restoration targets for each indicator for ecosystem condition.
260. The note following subsection 39(2) makes this clear, and further explains that even if an activity area has sub-areas with different reference ecosystems, a particular indicator for ecosystem condition is intended to reach the goal set by the target level in each sub-area. This means that all sub-areas will share the same overall target level as the activity area.
261. Proponents may have differing restoration goals, depending on their circumstances. The degree to which the proponent seeks to replicate the reference ecosystem will depend on factors including project funding, availability of seed stock and the starting condition state of the project area.
262. Categorising each activity area by restoration target level is important because it allows certificate buyers, investors and other stakeholders to better understand the nature and objectives of the revegetation. Restoration targets also inform forecasting of the ecosystem condition score and broader biodiversity benefits due to the implementation of the project.
263. Subsection 39(3) has the effect that there are restrictions on what restoration target levels can be nominated based on the starting ecosystem condition state. This is to ensure that the nominated restoration target level is both achievable in 25 years, and appropriate given the degree of degradation of the ecosystem condition in the activity area. The more modified the starting ecosystem condition state is from the identified

reference ecosystem, the less likely it is that a higher restoration target level can be achieved. In contrast, because ecosystem condition should only increase as a result of a project, starting from a relatively high ecosystem condition state allows only higher restoration target levels to be appropriate.

264. Specifically:

- a. Where the starting ecosystem condition state is State A – the project plan can only nominate restoration target level 4;
- b. Where the starting ecosystem condition state is State B – the project plan can nominate restoration target levels 2, 3 or 4 (but not 1);
- c. Where the starting ecosystem condition state is State C – the project plan can nominate restoration target levels 1, 2 or 3 (but not 4);
- d. Where the starting ecosystem condition state is State D – the project plan can only nominate restoration target levels 1 or 2.

265. The nomination of restoration target levels – and therefore restoration targets for each indicator for ecosystem condition – complies with the requirement in the BAI to determine the forecast values of each of the indicators for ecosystem condition (see paragraph 12(2)(e) of the BAI).

Section 40 – Threatened species and ecological communities

266. Section 40 of the RNF Methodology sets requirements for the project plan relating to threatened species and ecological communities.

267. The project plan for a replanting project covered by the RNF Methodology must include a description of any measures that are proposed to be taken for the purposes of conserving, or promoting the recovery of, threatened species or ecological communities that are identified as part of the starting state assessment as occurring, or likely to occur, within each activity area and in the surrounding landscape (see paragraph 32(d)).

Section 41 – Nomination of culturally significant entities, indicators and restoration targets

268. Section 41 of the RNF Methodology sets requirements for the project plan relating to the nomination of culturally significant entities.

269. Consistent with sections 11 and 16 of the BAI, the RNF Methodology allows the project proponent of a replanting project covered by the RNF Methodology to nominate a culturally significant entity to be assessed as part of the project.

270. 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. The identification and describing of culturally significant entities, and the enhancement and protection of the culturally significant entities as a result of the project activities, should be guided by a culturally appropriate, locally relevant and place-based approach. ‘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.

271. For each culturally significant entity that is nominated, the project proponent must also, in the project plan:
- a. identify and describe the culturally significant entity in accordance with subsection 45(4); and
 - b. nominate the indicators, their threshold values and the restoration targets as established in accordance with subsection 45(4);
 - c. set out, as established in subsection 45(4):
 - i. the project activities that will contribute to protection or enhancement of the culturally significant entity; and
 - ii. the starting value of each of the indicators; and
 - iii. include the documentation mentioned in subsection 45(5).
272. These matters are essential for accurately measuring and assessing the change in the culturally significant entities as a result of the project activities, which will contribute to determining whether the project outcome has been achieved or is likely to be achieved.
273. The requirements in section 45 (see below) ensure that the processes and requirements that must be complied with in identifying and describing culturally significant entities, and related matters, will be tailored to ensure that the knowledge, values and traditions of the relevant Aboriginal persons or Torres Strait Islanders are respected.
274. The nomination may be made before or after the project is registered. Where the nomination is made after the project is registered, the project plan will need to be updated with the information above, before an application for a certificate can be made (see section 54).
275. The option to nominate a culturally significant entity 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.

Section 42 – Climate change considerations

276. Section 42 of the RNF Methodology sets requirements for the project plan relating to climate change considerations.
277. The project plan for a replanting project covered by the RNF Methodology must include the following information:
- a. how the project proponent plans to reduce the risk of the project outcome not being achieved as a result of the reasonably expected effects of climate change, particularly in relation to those areas identified by the starting state assessment as vulnerable to the effects of climate change (under paragraph 34(b) above); and
 - b. the evidence on which those plans rely.
278. This requirement is intended to ensure that the RNF Methodology complies with subsection 7(2) of the BAI.
279. The risk from climate change to projects achieving biodiversity outcomes has been considered in other requirements in the RNF Methodology, for example in determining the period for achievement of project outcome (section 10) and flexibility in the identification of ecosystems (subsection 44(14)). However, there is the potential for residual climate risks to apply to the particular project area. This requirement to consider the reasonably expected effects of climate change in the project plan is intended to support market confidence, as it should reduce climate-related risks to the project's biodiversity outcome, where those risks are foreseeable and mitigable. Examples include flood prone areas, or features that materially affect plant water availability.
280. This requirement will ensure 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. 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.

Section 43 – Dealing with threats and adverse events

281. Section 43 of the RNF Methodology sets requirements for the project plan relating to dealing with threats and adverse events.
282. Adaptive management is required by the biodiversity integrity standards as outlined in the NR Act. As such, the project plan must outline how threats and disturbance events will be handled when they arise. By requiring the proponent to plan for these

occurrences, the risk of such threats and disturbance events jeopardising the nominated biodiversity outcome is reduced.

283. The project plan for a replanting project covered by the RNF Methodology must include the following information:
- a. any management activities that are proposed to address the threats to the project outcome identified as part of the starting state assessment (see paragraph 32(a) and section 34); and
 - b. any management activities that are proposed to adaptively manage the project for the duration of the permanence period to ensure the project outcome is likely to be achieved and maintained; and
 - c. details of any management activities that are proposed to respond to an adverse event occurring prior to a biodiversity certificate being issued for the project and that could lessen the likelihood of the project outcome being met; and
 - d. details of any management activities that are proposed to respond to a significant reversal of the project outcome occurring after a biodiversity certificate is issued for the project.

Section 44 – Updating a project plan

284. Section 44 of the RNF Methodology has the effect that a project proponent is required to keep the project plan for the project up to date over the course of the project. The project plan for a registered biodiversity project may need to be updated for a number of reasons, including (but not limited to):
- a. where the project proponent is satisfied that remedial plantings are necessary to achieve the biodiversity outcome for the project;
 - b. where the project proponent decides, after the registration of the project, to nominate a culturally significant entity that is relevant to the project;
 - c. where the project proponent needs to re-stratify the project area into different activity areas, in accordance with the requirements in section 22.
285. Updates must be made as soon as practicable after the project proponent becomes aware that an update is required.
286. The first note following section 44 refers the reader to section 113 of the NR Act, which imposes a requirement on the project proponent for a registered biodiversity project to notify the Regulator if the project plan for their project is varied, and to provide a copy of the varied plan to the Regulator within 60 days. Failure to comply with these requirements is a contravention of a civil penalty provision.

287. The second note following section 44 explains that project plan will need to be updated if a culturally significant entity is nominated after the project is registered, in accordance with section 41.

Division 2.7 – Culturally significant entities

Section 45 – Culturally significant entities of a replanting project

288. Section 45 of the RNF Methodology sets out the requirements for nominating, in the project plan under section 41, a culturally significant entity to be assessed as part of a replanting project covered by the RNF Methodology.

289. Before making the nomination, the project proponent must:

- a. engage with relevant Aboriginal persons or Torres Strait Islanders for the project area; and
- b. determine that the entity is of cultural significance to the relevant Aboriginal persons or Torres Strait Islanders; and
- c. be satisfied that that the enhancement or protection of the entity will contribute to achieving the project outcome.

290. This will ensure that the culturally significant entity is a culturally significant entity that is relevant to the project, within the meaning of section 4 of the BAI.

291. The nomination may be made only if the project proponent has established the following:

- a. how the culturally significant entity will be identified and described; and
- b. the project activities that will contribute to protection or enhancement of the culturally significant entity; and
- c. indicators to measure and assess change to the culturally significant entity, and the culturally appropriate processes by which these will be assessed and verified by the relevant Aboriginal persons and Torres Strait Islanders for the project area; and
- d. the starting value of each of the indicators; and
- e. the threshold values of each of the indicators; and
- f. appropriate restoration targets for each of the indicators.

292. These matters are essential for accurately measuring and assessing the change in the culturally significant entities as a result of the project activities, which will contribute to determining whether the project outcome has been achieved or is likely to be achieved.

293. The project proponent must be able to demonstrate and document, with culturally appropriate evidence that they have:
- a. identified and engaged with the relevant Aboriginal persons or Torres Strait Islanders for the project area; and
 - 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; and
 - c. appropriately engaged with the relevant Aboriginal persons or Torres Strait Islanders for the project area in relation to each of the above matters for the culturally significant entity; and
 - d. identified (or, where relevant, identified and described) each of the above matters, for the culturally significant entity, consistently with any requirements of the relevant Aboriginal persons or Torres Strait Islanders for the project area; and
 - e. obtained agreement from the relevant Aboriginal persons or Torres Strait Islanders to the proposed culturally appropriate verification process that will be followed to demonstrate the delivery of change to the culturally significant entity; and
 - f. obtained agreement from the relevant Aboriginal persons or Torres Strait Islanders on how information relating to the culturally significant entity will be provided to the Regulator and the extent to which it can be included on the Register.
294. The project proponent must also be able to demonstrate and document, with culturally appropriate evidence that the project activities are likely to result in the nominated restoration target for each of the indicators for the culturally significant entity.
295. These requirements ensure that the processes and requirements that must be complied with in identifying and describing culturally significant entities, and related matters, will be tailored to ensure that the knowledge, values and traditions of the relevant Aboriginal persons or Torres Strait Islanders are respected. In particular, 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 RNF Methodology. 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 enables 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.

Division 2.8 – Identifying reference ecosystems

Section 46 – Identifying reference ecosystems

296. As noted above, as part of the starting state assessment, a reference ecosystem must be identified for all activity areas or sub-areas (see paragraph 30(1)(a)). A *reference ecosystem*, in relation to an activity area or sub-area, is defined in section 5 to mean an ecosystem that will serve as the model or benchmark for restoration, against which to compare the ecosystem condition of the activity area or sub-area. An activity area may consist of sub-areas where there are different reference ecosystems identified for the different sub-areas, provided those reference ecosystems are from the same major vegetation group.
297. Section 46 of the RNF Methodology sets out the process for identifying the reference ecosystem for an activity area or sub-area. A reference ecosystem must be assigned to all lands included in an activity area. The process in section 46 will result in the reference ecosystem for a particular activity area or sub-area being the native vegetation type that was most likely to be present on the land prior to clearing (or pre-1750), having regard to the biophysical characteristics of the site and the type of ecosystem it is currently likely to support. However, appropriate flexibility is provided to identify suitable native ecosystems as reference ecosystems for sites where biophysical conditions have been altered to such an extent that the original native ecosystem type is no longer suited to the site.
298. The requirements in section 46 are intended to comply with section 10 of the BAI.
299. Subsection 46(2) makes it clear that the assignment of reference ecosystems must be undertaken at a maximum scale of 3 hectares, with a minimum width of 50 metres for linear features.
300. Subsection 46(3) requires the project proponent to set out the justification for making the selection, which must include any available evidence of historic ecosystems for the activity area.
301. Subsection 46(4) requires the project proponent to identify the selected reference ecosystem in a way that is consistent with:
- a. the IUCN Global Ecosystem Typology, as it exists at the time the starting state assessment is undertaken, at the functional group level; and
 - b. the National Vegetation Inventory System (NVIS), as it exists at the time the starting state assessment is undertaken, at both the association level and sub-association level.
302. The first note following subsection 46(4) explains where the IUCN Global Ecosystem Typology and the NVIS are available.
303. The second note following subsection 46(4) explains that the association level and sub-association level correspond to levels 5 and 6 of the NVIS.

304. The purpose of requiring the proponent to describe reference ecosystems using consistent global and national ecosystem typologies 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.
305. Subsections 46(5) to (16) set out the process for identifying the reference ecosystem for an activity area or sub-area. This process involves:
- a. accessing and examine the prescribed vegetation map for the activity area on PLANR; and
 - i. the *prescribed vegetation map* is defined in section 5 the spatial data product that forms part of the Prescribed Vegetation Classification System;
 - ii. the *Prescribed Vegetation Classification System* is defined in section 5 as the database of that name, published by the Department, as existing from time to time. The Prescribed Vegetation Classification System is freely available on the Department’s website;
 - iii. *PLANR* is defined in section 5 as the Department’s Platform for Land and Nature Repair database, freely available at planr.gov.au, as it exists from time to time.
 - iv. PLANR and the Prescribed Vegetation Classification system are databases that are incorporated into the RNF Methodology as existing from time to time. This is in reliance on subsection 45(10) of the NR Act, which provides that, despite subsection 14(2) of the Legislation Act, a methodology determination may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time. It is appropriate for these databases to be incorporated into the RNF Methodology as existing from time to time, as they are subject to regular updates due to both changes in location and condition of native vegetation, and advances in the scientific (ecological) processes from which that data is obtained. Requiring project proponents to use the most up to date search tool will mean that their assessment of the appropriate reference ecosystems in each activity area will be more accurate and fit for purpose, which will ensure better environmental outcomes;
 - b. Verifying that the prescribed vegetation map is likely to be correct in relation to the activity area or sub-area, by using a virtual assessment, a field survey (as part of the initial field survey that is included in the starting state assessment); and

- c. if satisfied that the prescribed vegetation map is likely to be correct – assigning a reference ecosystem to the activity area or sub-area that reflects the native vegetation type for that activity area or sub-area; and
- d. if satisfied that the prescribed vegetation map is not likely to be correct – using the Prescribed Vegetation Classification System in accordance with the process in subsections 46(10) to (16) to assign a reference ecosystem to the activity area that either reflects the ecosystem that was most likely to be present on the land prior to clearing (or pre-1750), having regard to the biophysical characteristics of the site and the type of ecosystem it is currently likely to support, or is an adjusted native reference ecosystem, which accounts for irreversible environmental changes such as climate change.

Division 2.09 – Monitoring, measuring and assessing biodiversity outcomes

Section 47 – Notification requirements of project proponents

- 306. Paragraph 45(1)(f) of the NR Act allows a methodology determination to require the project proponent for a registered biodiversity project covered by the methodology determination to notify the Regulator of specified matters relating to the project. In addition, paragraph 45(3)(d) of the NR Act provides that a methodology determination may impose on the project proponent for a registered biodiversity project covered by the methodology determination specified requirements to notify one or more matters relating to the project to the Register.
- 307. Section 108 of the NR Act makes it a contravention of a civil penalty provision for the project proponent for a registered biodiversity project to fail to comply with a notification requirement imposed on them by the methodology determination that covers the project.
- 308. Section 47 of the RNF Methodology is made for the purposes of paragraphs 45(1)(f) and 45(3)(d) of the NR Act. The effect of this provision is that a project proponent of a replanting project under the RNF Methodology is required to notify the Regulator if any of the following occurs:
 - a. an activity is carried out in the project area (either by the project proponent, another person, or as a result of a natural disturbance) that is a prohibited activity under section 16;
 - b. consent to the use of Indigenous knowledge or values in the design or implementation of the project is withdrawn;
 - c. the project plan is updated to nominate a culturally significant entity to assess as part of the project, after the project is registered.
- 309. Failure to comply with the requirements in section 47 will be a contravention of a civil penalty provision under section 108 of the NR Act.

310. It is important that the Regulator be notified of these matters, as they will be relevant either to the likelihood of the project outcome being achieved, or the criteria for issuing a biodiversity certificate for the project.
311. In the event of the proponent being notified by the relevant Aboriginal person or Torres Strait Islanders that they wish to remove or alter the knowledge consent provided for the Indigenous knowledge or values in the project, it is expected that the proponent engages with the relevant parties in efforts to negotiate and work through concerns, if applicable, and relevant.

Section 48 – Monitoring requirements – ecosystem condition

312. Section 48 of the RNF Methodology sets monitoring requirements for ecosystem condition. These requirements will apply to all replanting projects covered by the RNF Methodology.
313. Monitoring performs the following functions:
- a. it assesses the extent to which the project is achieving its biodiversity outcome, as reflected in the biodiversity outcome indicators; and
 - b. it assesses the extent to which the project has been carried out in accordance with the project plan; and
 - c. it provides the evidence base to support applications for the issuance of biodiversity certificates.
314. The methods used to monitor projects are the same as those used in the initial site assessment and involve the collection of ecological data from the same permanent monitoring plots. This ensures there is consistent data through the life of the project, which facilitates valid analyses on project performance.
315. Subsection 48(1) requires the project proponent to monitor progress towards:
- a. the nominated restoration target; and
 - b. the threshold value,
- for each of the indicators for ecosystem condition for each activity area by making monitoring assessments of the project area in accordance with this section.
316. A *monitoring assessment* of the project area involves doing the following for each activity area:
- a. determining the value of each indicator for the ecosystem condition of the activity area at the time of the monitoring, in accordance with items 5 to 10 of Schedule 5; and

- b. identifying and recording any potential threats to the project at the time of the monitoring, in the same way as for section 33; and
- c. identifying and recording any threatened species or ecological communities that occur, or are likely to occur, within the activity area and in the surrounding landscape at the time of the monitoring, in the same way as for paragraph 32(d); and
- d. assessing the planting area and record any significant absences or mortality of plantings at the time of the monitoring.

317. A *significant absence or mortality of plantings* occurs if more than 5% of 10m x 10m cells do not contain live trees or shrubs capable of achieving forest cover.

318. Subsection 48(2) deals with when a monitoring assessment must be made. It provides that a monitoring assessment must be made in each reporting period for the applicable biodiversity project report (whether for category A biodiversity project reports or category B biodiversity project reports).

319. Subsection 48(3) requires a monitoring assessment to:

- a. be undertaken by a suitably qualified person; and
- b. include a field survey undertaken at, or as close as practicable to, the time of optimal plant growth for the relevant Natural Resource Management region.

320. Subsection 48(4) requires the project proponent to also make a photo survey of each activity area, by taking 6 photos of each permanent sampling plot in accordance with item 3 of Schedule 5, at the following times:

- a. if a biodiversity certificate has not been issued for the replanting project—every 12 months following registration of the project; and
- b. if a biodiversity certificate has been issued for the project—every 2 years following the issue of the certificate.

321. The note following subsection 48(4) explains that the photo survey does not need to be undertaken by a suitably qualified person.

322. These requirements are intended to comply with subsections 12(8) and 18(7) of the BAI.

Section 49 – Monitoring requirements – culturally significant entities

323. Section 49 of the RNF Methodology sets monitoring requirements for culturally significant entities. These requirements will apply where the project proponent has

nominated, in the project plan, a culturally significant entity to assess as part of the project – either prior to, or after, the project is registered (see sections 41 and 45).

324. Subsection 49(1) requires that, where there is a culturally significant entity for the project, the project proponent of a replanting project covered by the RNF Methodology must monitor progress towards the nominated restoration target and threshold value for each indicator for the culturally significant entity.
325. The nominated restoration target and threshold value for an indicator for a culturally significant entity will be established in consultation with the relevant Aboriginal persons or Torres Strait Islanders for the project area and will be set out in the project plan (see sections 41 and 45).
326. Monitoring the progress of the project towards the nominated restoration target and the threshold value of each indicator is required to be undertaken with the consent of, and in accordance with any requirements of, the relevant Aboriginal persons or Torres Strait Islanders for the project area (subsection 47(2)). This is intended to ensure that Indigenous knowledge, values and traditions are respected and that the project is implemented in an appropriate and culturally informed manner.
327. The requirements in section 49 are intended to comply with subsections 16(7) and 18(7) of the BAI.

Section 50 – Matters to be included in biodiversity project reports

328. Paragraph 45(3)(c) of the NR Act allows a methodology determination to impose on the project proponent for a registered biodiversity project that is covered by the methodology determination specified requirements to include information relating to the project in each biodiversity project report for the project.
329. Section 50 of the RNF Methodology is made for the purposes of paragraph 45(3)(c) of the NR Act and prescribes the information that must be included in each biodiversity project report for a replanting project covered by the RNF Methodology.
330. Subsections 50(1) to (3) deal with monitoring reports and apply to all replanting projects. These provisions impose the following requirements:
 - a. each biodiversity project report for a replanting project covered by the RNF Methodology is required to include a report on the results of the monitoring assessment undertaken (under section 48) for the relevant reporting period;
 - b. the report must be prepared by the suitably qualified person who undertook the monitoring assessment;
 - c. the report must include the following information:

- i. the name, qualifications and experience of the suitably qualified person who conducted the monitoring assessment and prepared the monitoring report; and
- ii. a map of the project area that includes a map of the activity areas and the location of each permanent sampling plot in each activity area; and
- iii. the reference ecosystems for each activity area; and
- iv. the starting ecosystem condition state for each activity area; and
- v. the benchmark values for the reference ecosystems in each activity area; and
- vi. the starting values for each indicator for ecosystem condition in each activity area; and
- vii. details of the permanent sampling plots in each activity area, including:
 - I. the location of each sampling plot and the reference ecosystem that applies to it; and
 - II. the location of the permanent markers for each sampling plot; and
 - III. the location of the centre line for each sampling plot; and
 - IV. a description of how the plots were determined; and
- viii. details of all species planted during the reporting period and the method of planting; and
- ix. a summary of all plant species recorded during monitoring; and
- x. details of any natural regeneration that has occurred or is occurring in each activity area during the reporting period; and
- xi. the monitoring data obtained during the reporting period (in accordance with the processes set out above) from each permanent sampling plot, provided in data tables appended to the report; and
- xii. an analysis, based on the monitoring data, of the progress of each indicator for ecosystem condition against the restoration target for that indicator for each activity area; and

- xiii. an analysis, based on the monitoring data, of the progress of each indicator for ecosystem condition against the threshold value for each activity area (for issuing a certificate); and
- xiv. certification that the sampling plots located in each activity area are representative of at least 90% of the activity area in which they are located, in terms of composition and condition, at the time of monitoring; and
- xv. details of any significant absences or mortality in plantings for each activity area; and
- xvi. for each activity area, details of the potential threats to the likelihood of achieving the project outcome identified during the reporting period; and
- xvii. for each activity area, details of the threatened species and ecological communities that were identified as occurring, or likely to occur, within the activity area and in the surrounding landscape during the reporting period; and
- xviii. details of any fires that have occurred in an activity area during the reporting period, including the dates the fires started and ended, the location of the fire, the cause of the fire (if known), the proportion of each activity area, and the project area overall, that was affected by the fire, and the percentage of trees and shrubs killed by the fire; and
- xix. the photographs taken during the reporting period in accordance with the photo survey requirements; and
- xx. an assessment of observations from such photographs, including general project progress and evidence of disturbance and plant mortality; and
- xxi. an assessment of the implementation of the project during the reporting period, including in relation to:
 - I. plantings undertaken – covering the quantity of seedlings or seed planted, the species planted and method of planting; and
 - II. natural regeneration; and
 - III. any remedial plantings undertaken – covering the quantity of seedlings or seed planted, the species planted, the timing and location of the plantings, and the extent of plant mortality (where relevant); and
 - IV. any livestock exclusion from the activity areas; and

- V. any weed management activities undertaken, including the methods used, the species targeted, the timing of the weed management activities, the type and quantity of chemicals used (if any) and the labour hours for each method used; and
- VI. any pest management activities undertaken, including the methods used, the species targeted, the timing of the activities, the number of labour hours for each method used and, where animals are shot or trapped, the number and species of the animals killed; and
- xxii. details of whether, and how, seed collection has been conducted in accordance with relevant best practice guidelines; and
- xxiii. details of any engagement with Aboriginal persons or Torres Strait Islanders during the reporting period in relation to the implementation of the project, including any changes made to the implementation of the project as a result of such engagement; and
- xxiv. details of how any Indigenous data used during the reporting period in relation to the implementation of the project was collected, used and stored in a culturally appropriate way, including in accordance with any consent obtained for the collection, use or storage of the data.

331. Subsection 50(4) only applies to replanting projects where the project proponent for the project has nominated, in the project plan, a culturally significant entity to be assessed as part of the project (whether the nomination was made before or after the project was registered). Where this is the case, each biodiversity project report for the project must include:

- a. if the relevant Aboriginal persons or Torres Strait Islanders for the project area have consented to the inclusion of such information in the biodiversity project report – information on progress of the project toward the threshold value and nominated restoration target for each indicator for each culturally significant entity during the reporting period for the report; or
- b. otherwise – a statement as to whether or not the relevant persons have verified the progress of the project towards the threshold value and nominated restoration target for each indicator for the each culturally significant entity during the reporting period for the report.

332. Subsections 50(5) and (6) deal with meeting the threshold values for indicators:

- a. where the project proponent is satisfied that the threshold value for an indicator for ecosystem condition is met, each biodiversity project report for the project must include a statement to that effect and evidence supporting the statement;

- b. where the project proponent is satisfied that the threshold value for an indicator for a culturally significant entity is met, each biodiversity project report for the project must include a statement to that effect, and evidence that the relevant Aboriginal persons or Torres Strait Islanders have verified that the threshold value has been met. In addition, if the relevant Aboriginal persons or Torres Strait Islanders have consented to including such information, each biodiversity project report for the project must include evidence supporting the statement that the threshold value has been met.
333. Subsection 50(7) requires that the data in a biodiversity project report, and its presentation, must be consistent with the Data Submission Guidelines. The *Data Submission Guidelines* are defined in section 5 of the RNF Methodology as meaning the document of that name published on the Department’s website as it exists from time to time.
334. The Data Submission Guidelines are incorporated into the RNF Methodology as existing from time to time. This is in reliance on subsection 45(10) of the NR Act, which provides that, despite subsection 14(2) of the Legislation Act, a methodology determination may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.
335. It is appropriate for the Data Submission Guidelines to be incorporated into the RNF Methodology as existing from time to time, as these guidelines are subject to regular updates due to advances in data requirements and the scientific (ecological) processes from which the data is obtained. Requiring project proponents to use the most up to date data requirements and scientific processes will allow for a more accurate assessment of the project’s progress against the biodiversity outcome for the project which will, in turn, both ensure better environmental outcomes and make it clearer when compliance action may need to be taken. The Data Submission Guidelines are freely accessible on the Department’s website (www.dcceew.gov.au).

Section 51 – Record-keeping requirements

336. Paragraphs 45(3)(e) of the NR Act allows a methodology determination to impose on the project proponent for a registered biodiversity project that is covered by the methodology determination specified record-keeping requirements relating to the project.
337. Section 51 of the RNF Methodology is made for the purposes of paragraph 45(3)(e) of the NR Act. The note at the start of section 50 explains that Part 17 of the NR Act requires the project proponent of a registered biodiversity project to keep certain records in accordance with the rules, and that section 50 of the RNF Methodology imposes additional record-keeping requirements on top of those in the NR Act and the NR Rules.

338. Subsection 51(1) requires a project proponent for a replanting project under the RNF Methodology to keep records of the following information:

- a. evidence that the project area and activity areas meet the conditions and requirements for registration under this instrument;
- b. records that demonstrate that monitoring activities have been undertaken in accordance with the monitoring requirements in this instrument (see sections 47 and 48, and Schedule 9);
- c. records relating to the installation of fences or other devices to exclude livestock, and any related maintenance work;
- d. records relating to the installation of any other infrastructure for the purposes of the project;
- e. records relating to any livestock incursions into the project area;
- f. records relating to any weed management activities undertaken in one or more activity areas including the methods used, the species targeted, the timing of the activities, the type and quantity of chemicals used (if any) and the number of labour hours involved for each method used;
- g. records relating to any pest management activities undertaken in one or more activity areas including the methods used, the species targeted, the timing of the activities, the number of labour hours involved for each method used and, where animals are shot or trapped, the number and species of the animals killed;
- h. records relating to the environmental plantings (other than remedial plantings) undertaken for the purposes of the project including the species planted, the quantity of the seedlings or seeds planted, the timing and location of the plantings and, where applicable, the extent of plant mortality;
- i. records relating to any remedial plantings undertaken for the purposes of the project including the species planted, the quantity of the seedlings or seeds planted, the timing and location of the plantings and, where applicable, the extent of plant mortality;
- j. information regarding any fires occurring in an activity area including the date the fire occurred, the location of the fire, the proportion of the activity area affected by the fire, the proportion of the project area affected by the fire and the percentage of trees and shrubs killed by the fire;
- k. any photographs taken in accordance with the monitoring requirements under this instrument;

- l. a description of any management actions undertaken in an activity area, or disturbance events that affected an activity area including (if relevant) any actions undertaken to ensure there was no significant reversal of the project outcome;
- m. records relating to any engagement with the relevant Indigenous representatives for the project area, or any other relevant Aboriginal persons or Torres Strait Islanders for the project area, in accordance with sections 28, 29 and 45 of this instrument and consistent with any requirements of, and consent obtained from, the relevant Aboriginal persons or Torres Strait Islanders.

339. Subsection 51(2) clarifies that the records mentioned in subsection 51(1) are required to be kept for a period of 7 years after the record is made.

Part 3 – Registration

Section 52 – Information and documents required for registration application

340. Paragraphs 12(2)(g) and 12(3)(f) of the NR Act allows a methodology determination to specify additional information and documents that must accompany an application for approval of the registration of a biodiversity project.
341. Section 52 of the RNF Methodology is made for the purposes of paragraphs 12(2)(g) and 12(3)(f) of the NR Act. It requires that an application for the approval of the registration of a biodiversity project covered by the RNF Methodology must include, or be accompanied by, the following additional information and documents:
- a. the project plan (see section 36);
 - b. the site assessment report (see section 35);
 - c. evidence that each activity area consists of eligible land (see sections 18 and 19);
 - d. whether any culturally significant entities have been nominated for the replanting project.
342. The application for approval of registration of a biodiversity project will also need to comply with the requirements of the NR Act and the *Nature Repair Rules 2024* (NR Rules) for such applications, including in relation to the information that needs to be included in the application and the documents that need to accompany the application.
343. The purpose of requiring an application for approval of registration to include these information and documents is to ensure that, in conjunction with the information and documents required by the NR Act and NR Rules, the application contains sufficient information for the Regulator to be able to decide whether the criteria for approving the project's registration in subsection 15(4) of the NR Act is satisfied. In particular, the information and documents mentioned in section 49 will ensure there is sufficient information for the Regulator to be satisfied as to whether the conditions on registration imposed under Part 2 of the RNF Methodology have been complied with.

Section 53 – Information to be included in the Register

344. Paragraph 45(1)(c) of the NR Act allows a methodology determination to provide for information that is to be included in the entry in the Register for a registered biodiversity project that is covered by the methodology determination. Paragraph 162(1)(k) of the NR Act requires the Register to set out, for each registered biodiversity project, such other information (if any) as is provided under paragraph 45(1)(c) by the methodology determination that covers the project.
345. Section 53 of the RNF Methodology is made for the purposes of paragraphs 45(1)(c) and 162(1)(k) of the NR Act and prescribes the information that must be included on the Register for each replanting project covered by the RNF Methodology.
346. This information is:
- a. a description of the stratification of the project area into activity areas and any sub-areas, and a map and geospatial data of the project area that shows the activity areas and any sub-areas that are within the project area, and is consistent with the Mapping Guidelines; and
 - b. the counterfactual scenario for a replanting project set out in section 9; and
 - c. that the variable biodiversity project characteristics mentioned in subsection 13(2) of the BAI are not applicable to a replanting project; and
 - i. These are the removal or reduction of the impact of threats to biodiversity in native species in the project area, the commitment to protection of biodiversity in native species in the project area and the capability of the project area to support threatened species.
 - d. the site assessment report; and
 - e. the descriptions of the reference ecosystems for each activity area in accordance with subsection 46(4); and
 - f. the starting ecosystem condition state for each activity area; and
 - g. the starting values for each indicator for ecosystem condition for each activity area; and
 - h. the project outcome; and
 - i. the period in which the project outcome is intended to be achieved; and
 - j. information relating to the level of commitment to protection of biodiversity in native species in the project area; and

- k. the nominated restoration targets for ecosystem condition for each activity area; and
- l. the threshold value for each indicator for ecosystem condition for each activity area; and
- m. if the threshold value for an indicator for ecosystem condition has been met:
 - i. a statement to that effect; and
 - ii. evidence supporting that statement; and
- n. information on progress towards the nominated restoration targets for each of the indicators for ecosystem condition; and
- o. if the project plan has not nominated a culturally significant entity—a statement that culturally significant entities are not applicable to the replanting project; and
- p. if the project plan has nominated a culturally significant entity as relevant to the project, for each culturally significant entity:
 - i. to the extent that the relevant Aboriginal persons or Torres Strait Islanders for the culturally significant entity have consented to the inclusion on the Register of the following information:
 - I. the nominated culturally significant entity; and
 - II. the identified indicators for the culturally significant entity; and
 - III. the starting values for each indicator for the culturally significant entity; and
 - IV. the nominated restoration target for each indicator; and
 - V. the threshold value for each indicator; and
 - VI. information on progress of the project toward the nominated restoration target for each indicator provided in the most recent biodiversity project report submitted to the Regulator, and the end date of the relevant reporting period; and
 - ii. if the relevant Aboriginal persons or Torres Strait Islanders for the culturally significant entity have not consented to the inclusion of information mentioned above, as appropriate:

- I. a statement that there are one or more culturally significant entities that are relevant for the project; and
 - II. a statement that there is a threshold value and a nominated restoration target for each indicator for the culturally significant entity; and
 - III. whether the progress of the project towards the nominated restoration target for each indicator for the culturally significant entity has been verified by the relevant Aboriginal persons or Torres Strait Islanders for the culturally significant entity; and
- q. if the threshold value for an indicator for a culturally significant entity has been met:
- i. a statement to that effect; and
 - ii. evidence that the relevant Aboriginal persons or Torres Strait Islanders for the culturally significant entity have verified that the threshold value has been met; and
 - iii. if the relevant Aboriginal persons or Torres Strait Islanders for the culturally significant entity have consented to including such information—evidence supporting the statement that the threshold value has been met; and
- r. the starting aggregate ecosystem condition score for the project; and
- s. the forecast aggregate ecosystem condition score for the project; and
- t. the starting values of the indicators for ecosystem condition for each activity area; and
- u. the starting ecosystem condition score for each activity area; and
- v. the forecast ecosystem condition score for each activity area; and
- w. the starting contribution to biodiversity persistence score for each activity area; and
- x. the forecast contribution to biodiversity persistence score for each activity area; and
- y. the starting aggregate contribution to biodiversity persistence score for the project; and

- z. the forecast aggregate contribution to biodiversity persistence score for the project.

347. 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 accurately compared on the Nature Repair Market.

348. These requirements are intended to comply with subsections 9(5), 10(4), 11(3), 11(4), 12(6), 16(4), 16(5) and 18(5) of the BAI.

Part 4 – Biodiversity certificates

Section 54 – Application for biodiversity certificate

349. Subparagraph 45(1)(d)(i) of the NR Act allows a methodology determination to set conditions that must be met before an application for a biodiversity certificate can be made in respect of a registered biodiversity project that is covered by the methodology determination. Under paragraph 67(2)(b) of the NR Act, an application for a biodiversity a certificate for a registered biodiversity project can only be made if any conditions prescribed in the methodology determination for the purposes of subparagraph 45(1)(d)(i) are met.

350. Section 54 of the RNF Methodology is made for the purposes of subparagraph 45(1)(d)(i) and paragraph 67(2)(b) of the NR Act and sets out four conditions that must be met by a replanting project covered by the RNF Methodology before an application can be made for a biodiversity certificate in respect of such a project.

351. The first condition applies to all replanting projects and relates to the threshold values for ecosystem condition. An application for a biodiversity certificate for a replanting project can only be made if:

- a. the project proponent is satisfied that, for each activity area, each indicator for ecosystem condition has reached the threshold value; and
- b. the application includes a statement to this effect, and supporting evidence in the form of a monitoring report that demonstrates that:
 - i. where the activity area is less than 10 hectares in size—each threshold value for an indicator has been reached in 100% of the permanent sampling plots in the activity area; and
 - ii. where the activity area is 10 hectares or more in size – each threshold value for an indicator has been reached in 75% of the permanent sampling plots in the activity area.

352. As noted above, the threshold values represent the change in a variable biodiversity project characteristic (in the RNF Methodology, ecosystem condition and, where

relevant, culturally significant entities) that is sufficient for the Regulator to be satisfied that the project outcome is likely to be achieved.

353. The threshold values for indicators for ecosystem condition for an activity area, based on the restoration target level that was nominated for the activity area, are set out in Schedule 7 to the RNF Methodology.
354. This requirement is intended to comply with subsection 18(8) of the BAI.
355. The second condition applies to a replanting project where the project proponent has nominated a culturally significant entity to be assessed as part of the project after the project has been registered. Where this is the case, an application for a biodiversity certificate for the project can only be made if the application is accompanied by the updated project plan, which must demonstrate that sections 41 and 45 have been complied with.
356. This requirement is intended to comply with paragraph 11(7)(b) and subsection 16(3) of the BAI. The purpose of this condition is to ensure that project proponents who nominate a culturally significant entity after the project is registered have complied with the same requirements as if they had nominated the culturally significant entity before the project is registered, including appropriate engagement (and obtaining the necessary consents and agreements) with the relevant Aboriginal persons or Torres Strait Islanders.
357. The third condition applies to a replanting project where the project proponent has nominated a culturally significant entity to be assessed as part of the project (whether the nomination occurs before or after the project is registered). This condition relates to the threshold values for the culturally significant entity. An application can only be made if:
 - a. the project proponent is satisfied that, for any culturally significant entity for the replanting project, each indicator for that culturally significant entity has reached the threshold value; and
 - b. the application includes a statement to this effect and supporting evidence that the relevant Aboriginal persons or Torres Strait Islanders have verified that the threshold value has been met for each indicator.
358. As noted above, the threshold values for an indicator for a culturally significant entity are those threshold values included in the project plan, which are established in consultation with the relevant Aboriginal persons or Torres Strait Islanders. Accordingly, it is appropriate that for the relevant Aboriginal persons or Torres Strait Islanders, rather than the Regulator, to assess whether each threshold value is met.
359. This requirement is intended to comply with subsection 18(8) of the BAI.

360. The fourth condition relates to the use of Indigenous knowledge, values or data. If the project includes, or is informed by, Indigenous knowledge or values in relation to the project's design or implementation (as mentioned in section 29), an application for a biodiversity certificate for the project can only be made if the application includes evidence that the project proponent has implemented the project consistently with the consent for the use of that knowledge or those values provided by the Aboriginal persons or Torres Strait Islanders. This condition is intended to comply with subsection 6(5) of the BAI and has the purpose of ensuring that the implementation of the project after it is registered is consistent with any consent given by the relevant Aboriginal persons or Torres Strait Islanders for the use of such knowledge, values or data.

Section 55 – Issue of biodiversity certificate

361. Paragraph 45(1)(e) of the NR Act allows a methodology determination to set additional conditions that must be met for a biodiversity certificate to be issued in respect of a registered biodiversity project that is covered by the methodology determination. Under paragraph 70(2)(h) of the NR Act, the Regulator can only issue a certificate for a biodiversity project if any conditions specified in the methodology determination for the purposes of paragraph 45(1)(e) are met.

362. Section 55 of the RNF Methodology is made for the purposes of paragraphs 45(1)(e) and 70(2)(h) of the NR Act and prescribes three conditions that must be met by a replanting project covered by the RNF Methodology before the Regulator can issue a certificate in respect of that project.

363. The first condition relates to threshold values. To issue a biodiversity certificate for a replanting project, the Regulator must be satisfied that:

- a. for each activity area – each indicator for ecosystem condition has reached the relevant threshold value for the indicator; and
- b. if the project proponent has nominated a culturally significant entity to assess as part of the project – the relevant Aboriginal persons or Torres Strait Islanders have verified that each indicator for the culturally significant entity has reached the threshold value for the indicator.

364. As noted above, the threshold values represent the change in a variable biodiversity project characteristic for the project (ecosystem condition and, where relevant, culturally significant entities) that is sufficient for the Regulator to be satisfied that the project outcome is likely to be achieved.

365. The threshold values for indicators for ecosystem condition for an activity area, based on the restoration target level that was nominated for the activity area, are set out in Schedule 7 to the RNF Methodology. The threshold values for an indicator for a culturally significant entity are those threshold values included in the project plan, which are established in consultation with the relevant Aboriginal persons or Torres Strait Islanders. Accordingly, it is appropriate that for the relevant Aboriginal persons or

Torres Strait Islanders, rather than the Regulator, to assess whether each threshold value is met.

366. This condition is intended to comply with subsection 18(9) of the BAI.
367. The second condition relates to the use of Indigenous knowledge, values or data. If the project includes, or is informed by, Indigenous knowledge or values in relation to the project's design or implementation (as mentioned in section 29), the Regulator can only issue a biodiversity certificate for the project if the Regulator is satisfied that the project proponent has implemented the project consistently with the consent for the use of that knowledge or those values provided by the Aboriginal persons or Torres Strait Islanders. This condition is intended to comply with subsection 6(5) of the BAI and has the purpose of ensuring that the implementation of the project after it is registered is consistent with any consent given by the relevant Aboriginal persons or Torres Strait Islanders for the use of such knowledge, values or data.
368. Paragraph 55(2)(b) reflects 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.
369. The third condition will only apply to a project where the project proponent nominated a culturally significant entity to be assessed by the project after the project is registered. This condition has the effect that the Regulator can only issue a biodiversity certificate in respect of such a project if the Regulator is satisfied that the requirements in section 45 (in respect of culturally significant entities) have been met, and the project plan has been updated in accordance with the requirements for nominating a culturally significant entity in section 41. The purpose of this condition is to ensure that project proponents who nominate a culturally significant entity after the project is registered have complied with the same requirements as if they had nominated the culturally significant entity before the project is registered, including appropriate engagement (and obtaining the necessary consents and agreements) with the relevant Aboriginal persons or Torres Strait Islanders.

Schedule 1 – Eligible regions

370. Schedule 1 to the RNF Methodology lists the eligible regions of Australia in which a replanting project can occur.
371. As noted above, section 18 of the RNF Methodology requires that the project area for a replanting project must be located wholly in one or more eligible regions. The term *eligible region* is defined in section 5 as having the meaning given by Schedule 1. Schedule 1 has the effect that an eligible region must be both:
- a. an IBRA subregion; and
 - b. included in the list of eligible IBRA subregions specified in Schedule 1.

372. This means that a biodiversity project covered by the RNF Methodology can only be registered if the Regulator is satisfied that the project area for the project is located wholly in an IBRA subregion that is listed in Schedule 1.
373. An *IBRA subregion* is a subregion defined by the Interim Biogeographic Regionalisation for Australia (IBRA) landscape classification framework version 7.0, as in effect at the relevant time.
374. Schedule 1 provides a list of IBRA subregions that are eligible regions for the purposes of section 18 of the RNF Methodology.
375. The note explains that these eligible regions have been selected because they reflect modified use landscapes that have historically experienced widespread clearing of native vegetation. Areas of remnant vegetation have often been degraded by uses such as forestry and agriculture, pressures such as pests and weeds, and can suffer from low levels of ecological connectivity.
376. Accordingly, these regions are considered appropriate for a replanting project under the RNF Methodology.

Schedule 2 – Establishing benchmark values of indicators

377. Schedule 2 to the RNF Methodology sets out the process for establishing benchmark values for the indicators for ecosystem condition, and the sub-indicators for the native species richness index indicator.
378. Benchmark values are needed for each indicator or sub-indicator for the reference ecosystem identified for each activity area or sub-area within the project area. This is because change in the values of the indicators for the ecosystem condition in the relevant activity area or sub-area as a result of project activities is measured against the benchmark values of those indicators – to assess the progress of the project towards the project outcome. The nominated restoration targets for each indicator in Schedule 6, and the threshold values for each indicator in Schedule 7, are based off the benchmark values for the indicators.
379. Under paragraph 30(1)(b) of the RNF Methodology, as part of the starting state assessment, project proponents are required to either:
- a. select the appropriate benchmark value from the Approved benchmark source list (if it gives one that is appropriate); or
 - b. establish a benchmark value in accordance with Schedule 2.
380. It is expected that, in most cases, project proponents will be able to select an appropriate benchmark value for each indicator or sub-indicator for ecosystem condition from the Approved benchmark source list. However, where this is not the case (either for an

indicator or all indicators), the project proponent must establish their own benchmark values for the indicators and sub-indicators, using the process in Schedule 2.

381. This process involves applying the point intercept method (see Schedule 3), the quadrat method (see Schedule 4), the plot survey method and measuring the height of canopy trees in at least 3 benchmark sites in an area of land that is in the same eligible region (or, in some circumstances, an adjacent IBRA subregion) as the activity area or sub-area, has a canopy layer that is at least 50 years old and has the same reference ecosystem as identified for the relevant activity area or sub-area. The data from this process is then used to calculate the benchmark value for each indicator, for each activity area or sub-area, in accordance with the processes in Steps 7 and 8 in Schedule 2.
382. The process in Schedule 2 requires the benchmark values for the native species richness index indicator to be calculated at the sub-indicator (lifeform) level. This is because the benchmark values for those sub-indicators are used to calculate the value for the overall native species richness index indicator in Schedule 5.

Schedule 3 – The point intercept method

383. Schedule 3 to the RNF Methodology sets out the point intercept method of measuring plant cover in an area.
384. The point intercept method involves:
- a. gathering data from designated sampling points along at 1 metre intervals along the centre line of the relevant sampling plot; and
 - b. assigning each sampling point to a category based on the ground cover at that sampling point; and
 - c. recording and identifying the species of ground layer plants at each sampling point; and
 - d. classifying each sampling point as falling beneath or outside of:
 - i. the crowns of native plants in the canopy layer;
 - ii. the crowns of native plants in the mid-storey layer;
 - iii. the crowns of non-native plants in the canopy layer;
 - iv. the crowns of non-native plants in the mid-storey layer.
 - e. Calculate crown cover from plants in the relevant layer.

385. The RNF Methodology requires that data from the point intercept method is used for the following purposes:
- a. determining the benchmark values for each indicator, and sub-indicator, for ecosystem condition (see Schedule 2); and
 - b. assessing the starting ecosystem condition state for each activity area (see Schedule 5); and
 - c. determining the starting values for each indicator for ecosystem condition (see Schedule 5); and
 - d. monitoring the progress of each indicator for ecosystem condition towards the nominated restoration targets (see Schedule 5).
386. This means that project proponents are required to use the point intercept method as part of the starting state assessment, and as part of ongoing monitoring requirements for their project.
387. Where the point intercept method is used for the purposes of assessing the starting ecosystem condition state, determining the starting values for the indicators for ecosystem condition and monitoring the progress of the indicators for ecosystem condition towards the nominated restoration targets, the method is applied to the permanent sampling plots in each activity area. The permanent sampling plots are established as part of the starting state assessment (see section 30 and Schedule 5).
388. Where the point intercept method is used for the purposes of determining the benchmark values for each indicator, and sub-indicator, for ecosystem condition, the method is applied to selected benchmark survey sites, in accordance with the process in Schedule 2. Benchmark survey sites are located outside the project area, in an area that reflects the identified reference ecosystem for the relevant activity area.

Schedule 4 – The quadrat method

389. Schedule 4 to the RNF Methodology sets out the quadrat method of measuring plant cover in an area.
390. The quadrat method involves:
- a. establishing 5 quadrats, of 1m x 1m, on the centre line of the relevant sampling plot spaced at 10 metre intervals, starting 5 metres in from one end of the centre line; and
 - b. obtaining data on the number and type of plant species located in each quadrat, and the proportion of ground area covered by certain categories of plant species.
391. The RNF Methodology requires that data from the quadrat method is used for the following purposes:

- a. determining the benchmark values for each indicator, and sub-indicator, for ecosystem condition (see Schedule 2); and
 - b. assessing the starting ecosystem condition state for each activity area (see Schedule 5); and
 - c. determining the starting values for each indicator for ecosystem condition (see Schedule 5); and
 - d. monitoring the progress of each indicator for ecosystem condition towards the nominated restoration targets (see Schedule 5).
392. This means that project proponents are required to use the quadrat method as part of the starting state assessment, and as part of ongoing monitoring requirements for their project.
393. Where the quadrat method is used for the purposes of assessing the starting ecosystem condition state, determining the starting values for the indicators for ecosystem condition and monitoring the progress of the indicators for ecosystem condition towards the nominated restoration targets, the method is applied to the permanent sampling plots in each activity area. The permanent sampling plots are established as part of the starting state assessment (see section 30 and Schedule 5).
394. Where the quadrat method is used for the purposes of determining the benchmark values for each indicator, and sub-indicator, for ecosystem condition, the method is applied to selected benchmark survey sites, in accordance with the process in Schedule 2. Benchmark survey sites are located outside the project area, in an area that reflects the identified reference ecosystem for the relevant activity area.

Schedule 5 – Assessing ecosystem condition state

395. Schedule 5 to the RNF Methodology sets out matters and processes relating to assessing the ecosystem condition of an activity area. This includes:
- a. the process and requirements for establishing permanent sampling plots in an activity area; and
 - b. the process and requirements for calculating the values of the indicators for ecosystem condition for an activity area; and
 - c. the process and requirements for assessing the starting ecosystem condition state for an activity area.
396. The permanent sampling plots will be used to:

- a. determine the starting values of the indicators for the activity area for paragraph 30(1)(e); and
 - b. assess the starting ecosystem condition state for the purposes of paragraph 30(1)(f); and
 - c. monitor progress of the indicators towards the threshold values and nominated restoration targets for subsection 48(1),
in accordance with the processes in Schedule 5.
397. These processes involve applying the point intercept method (see Schedule 3), the quadrat method (see Schedule 4), the plot survey method and measuring the height of canopy trees in the permanent sampling plots in each activity area.
398. The data from this process is then used to either:
- a. calculate the value for each indicator, for each activity area, in accordance with the processes in step 10 of Schedule 5; or
 - b. assess the starting ecosystem condition state for the activity area in accordance with the processes in step 11 of Schedule 5.

Schedule 6 – Restoration target levels

399. Schedule 6 to the RNF Methodology sets out the restoration target levels for each of the indicators for ecosystem condition.
400. The restoration targets levels are intended to represent the level of change in ecosystem condition needed to achieve the project outcome (ie the change in ecosystem condition that the replanting project is designed to achieve).
401. There are 4 restoration target levels. Project proponents must nominate a restoration target level for each activity area, based on the starting ecosystem condition state for the activity area (see section 39). Once a project proponent has nominated a restoration target level for an activity area, the values for each indicator in that target level will be the nominated restoration targets for each indicator for ecosystem condition.
402. For each activity area, project proponents will need to monitor the change in the indicators for ecosystem condition as a result of the activities of the project (see section 48). Once all indicators for ecosystem condition have reached the restoration targets in all activity areas, the project outcome will be taken to have been achieved.

Schedule 7 – Threshold values

403. Schedule 7 to the RNF Methodology sets out the threshold values for each of the indicators for ecosystem condition.

404. The threshold values are intended to represent the level of change in ecosystem condition that will allow the Regulator to be satisfied that the project outcome is likely to be achieved. The particular threshold values for an indicator for ecosystem condition that apply to each activity area for a replanting project will depend on the restoration target level that has been nominated for activity area.
405. For each activity area, project proponents will need to monitor the change in the indicators for ecosystem condition as a result of the activities of the project (see section 48). Once they are satisfied that the threshold values set out in Schedule 7 for each indicator for ecosystem condition are met for all activity areas (and provided additional requirements in section 54 are also met), the project proponent can apply for a biodiversity certificate to be issued in respect of the project.

Schedule 8 – Calculating the ecosystem condition score

406. Schedule 8 to the RNF Methodology sets out the process that project proponents must follow to calculate the following scores for their project:
- a. the starting ecosystem condition score for an activity area;
 - b. the forecast ecosystem condition score for an activity area;
 - c. the starting contribution to biodiversity persistence score for an activity area;
 - d. the forecast contribution to biodiversity persistence score for an activity area;
 - e. the starting aggregate ecosystem condition score for the project;
 - f. the forecast aggregate ecosystem condition score for the project;
 - g. the starting aggregate contribution to biodiversity persistence score for the project;
 - h. the forecast aggregate contribution to biodiversity persistence score for the project.
407. The project proponent is required to calculate these scores for their project as part of the starting state assessment (see subsections 30(2) and 30(3)). These scores are also required to be included in the entry on the Register for the project (see section 52).
408. These scores are intended to communicate the change in ecosystem condition at a project level, which will allow the benefits of projects to be meaningfully compared by investors in the Nature Repair Market. Scoring systems are intended to be a means to communicate complex information in a simple, comparable and digestible way. The project proponent must use the NBAS to calculate these scores. The NBAS provides a nationally consistent approach to scoring how a project is expected to impact upon ecosystem condition within activity area boundaries. It also estimates how these project

level changes in ecosystem condition are expected to contribute to the nationwide persistence of biodiversity.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*
Nature Repair ((Replanting Native Forest and Woodland Ecosystems) Methodology Determination 2025

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

Overview of the Legislative Instrument

The purpose of the *Nature Repair (Replanting Native Forest and Woodland Ecosystems) Methodology Determination 2025* (RNF Methodology) is to set out requirements for a specified kind of biodiversity project to be registered and operate under the *Nature Repair Act 2023* (NR Act).

The RNF Methodology is intended to apply to projects that enhance biodiversity in native species by replanting native forest and woodland ecosystems in modified landscapes. Restoration of native ecosystems will allow enhancement and protection of biodiversity in modified landscapes by improving the extent and condition of native vegetation and supporting ecological connectivity.

All biodiversity projects registered under this method will be required to undertake plantings of species native to the local area, consistent with appropriate reference ecosystems. The plantings must be maintained for the permanence period, which may require remedial plantings. Other management actions, including livestock and grazing pressure management, weed management, pest management, and fire management, would be complementary activities to minimise threats and support the establishment and maintenance of plantings.

Human rights implications

The RNF Methodology engages the prohibition on arbitrary interference with privacy under Article 17 of the International Covenant on Civil and Political Rights (ICCPR).

Prohibition on arbitrary interference with privacy (Article 17 of the ICCPR)

Article 17 of the ICCPR prohibits arbitrary or unlawful interference with an individual's privacy, family, home or correspondence and protects a person's honour and reputation from unlawful attacks. The prohibition on arbitrary interference with privacy can be limited to achieve a legitimate objective where the limitations are lawful and not arbitrary. For an interference with this prohibition to be permissible, the interference must be authorised by law, be for a reason consistent with the ICCPR and be reasonable in the circumstances – that is, any interference with privacy must be proportionate to a legitimate end and be necessary in the circumstances.

Collection and use of information

The RNF Methodology contains provisions that would:

- require a person to provide information in an application; and

- require a person to provide information in a site assessment report; and
- require a person to provide information in a project plan; and
- require a person to comply with certain reporting and notification requirements.

By requiring persons to provide information or documents, the RNF Methodology may incidentally require the provision of personal information. The collection, use and disclosure of personal information may therefore engage the prohibition on arbitrary interference with privacy.

These provisions of the RNF Methodology are necessary for the legitimate objective of assessing whether biodiversity project's progression towards the biodiversity outcome for the project, and to ensure the project proponent for the project is continuing to comply with requirements under the NR Act, the *Nature Repair Rules 2023* (NR Rules) and the RNF Methodology. The Regulator will require access to this information to properly assess whether to register a biodiversity project or issue a biodiversity certificate. They will also need ongoing and up-to-date information once a biodiversity certificate is issued to ensure that the project proponent is complying with their statutory obligations.

A person who provides information in an application will voluntarily participate in the regulatory system. Guidance from the Parliamentary Joint Committee on Human Rights indicates that whether a person has a reasonable expectation of privacy in the circumstances is relevant to the issue of determining whether a provision is permissible. A person who has voluntarily entered the Nature Repair Market should expect that a certain amount of personal information will need to be provided to the Regulator to obtain the benefits of that system.

The interference with privacy is not arbitrary in these circumstances because the information the person needs to provide is set out in the RNF Methodology. The information a person will need to provide may include information about their biodiversity project and the project area for the project. For example, a person will need to provide maps of the project area and information about any legal interest or encumbrances on the land that makes up the project area. A person may also need to provide information about engagement they have undertaken in relation to the design or implementation of the project, including with Aboriginal persons or Torres Strait Islanders.

A person who has voluntarily entered the regulatory system should be aware that they will have to provide this kind of information when they voluntarily decide to participate in the scheme.

It is also intended, to the extent that any information collected is personal information within the meaning of the *Privacy Act 1988* (Privacy Act), that the powers and functions in the NR Act and RNF Methodology will be required to be exercised in compliance with that Act. The Privacy Act regulates the collection, storage, use, disclosure and publication of personal information. It should also be noted that it is anticipated that many project proponents will be body corporates, for which the protections in the Privacy Act will not apply.

On this basis, to the extent that the provisions in the NR Rules engage the prohibition on arbitrary interference with privacy under Article 17 of the ICCPR, this limitation is necessary, proportionate and reasonable to achieve the legitimate objectives of the NR Act and the RNF Methodology.

Publication of information

The RNF Methodology provides for the publication of information about biodiversity projects on the Register. However, the information required to be included on the Register does not include personal information within the meaning of the Privacy Act. Accordingly, the requirement to publish information on the Register does not engage the prohibition on arbitrary interference with privacy.

Summary on Article 17

The above considerations indicate that, to the extent that it engages the prohibition on arbitrary interference with privacy under Article 17 of the ICCPR, the requirements in the RNF Methodology relating to the collection, use and publication of information is necessary, proportionate, and reasonable in the pursuance of the legitimate objectives of the NR Act and the RNF Methodology.

Conclusion

The RNF Methodology is compatible with human rights as to the extent that it engages and limits human rights (including under Articles 17 of the ICCPR), those limitations are reasonable, necessary and proportionate to achieve the legitimate aims of the NR Act and the RNF Methodology.

The Hon. Tanya Plibersek MP
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