

16<sup>th</sup> September 2022

Biodiversity Market Policy and Design Team  
Department of Climate Change, Energy,  
the Environment and Water (DCCEEW)  
CANBERRA ACT 2601  
[biodiversitymarket@DCCEEW.gov.au](mailto:biodiversitymarket@DCCEEW.gov.au)



To Whom It May Concern,

**RE: Submission to a proposed National Biodiversity Market**

Thank you for this opportunity to make a submission to the consultation process on a proposed national biodiversity market.

I am a Senior Lecturer and Australian Research Council DECRA Fellow based at the University of New South Wales, Canberra<sup>1</sup>. I have specific expertise in the design, implementation, and evaluation of biodiversity and carbon credits (offsets).

I was one of five independent academic experts invited to participate in Professor Graeme Samuel AC's Consultative Group as part of the Independent Review of the EPBC Act in 2020. I was involved in the design of the *Offsets Assessment Guide* used as part of the EPBC Act 1999 Environmental Offsets Policy (2012)<sup>2</sup>, and I am a member of the Offset Reference Group convened by Dr Kylie Galway in the Environment Approvals Division of DCCEEW.

I am also a co-author, along with colleagues at the Australian National University, of a series of papers<sup>3</sup> which have analysed the integrity of Australian Carbon Credit Units issued under the Emissions Reduction Fund.

Below, I provide a short synthesis of key concerns and recommendations for the proposed National Biodiversity Market

I would welcome the opportunity to provide any further assistance or input going forward.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Megan Evans', written over a horizontal line.

Dr Megan Evans  
University of New South Wales, Canberra  
[megan.evans@unsw.edu.au](mailto:megan.evans@unsw.edu.au)

<sup>1</sup> <https://research.unsw.edu.au/people/dr-megan-evans>

<sup>2</sup> Miller, K.L., Trezise, J.A., Kraus, S., Dripps, K., **Evans, M.C.**, Gibbons, P., Possingham, H.P., Maron, M., 2015. The development of the Australian environmental offsets policy: from theory to practice. *Environmental Conservation* 42, 306–314. <https://doi.org/10.1017/S037689291400040X>

<sup>3</sup> Macintosh, A., Butler, D., **Evans, M.C.**, *et al.*, 2022. Integrity and the ERF's Human-Induced Regeneration Method. The [Additionality](#) Problem Explained. The [Measurement](#) Problem Explained.

Macintosh, A., Butler, D., **Evans, M.C.**, Ansell, D., Waschka, M., 2022. [Fixing the Integrity Problems with Australia's Carbon Market](#). Australian National University, Canberra.

## Key concerns and recommendations for the proposed National Biodiversity Market

Megan Evans, University of New South Wales, Canberra

**Concern #1:** There appears to be confusion within Government over the difference between a biodiversity certificate and a credit – which are fundamentally different policy instruments.

On 27<sup>th</sup> July 2022, Minister Tanya Plibersek [told delegates](#) at the [National Biodiversity Offsets Conference](#):

*If we can formally credit a landholder's efforts to enhance an area's biodiversity.  
Markets can put a price on that work.  
Businesses can invest in it their credits.  
And landholders can then profit from their services to nature ...  
... Creating a clear financial incentive for high quality restoration work.  
This is similar to what we've done with carbon credits.*

On 26<sup>th</sup> August 2022, the Prime Minister Anthony Albanese [tweeted](#):

*And I announced that we will create a new market for biodiversity with a credit scheme, similar to how the carbon market operates.*

*It will help better protect waterways and habitats, reduce erosion, and improve drought resilience for farms and wilderness areas.*

Yet on the same day, the Albanese Labor Government has [announced](#) the creation of a biodiversity certificates scheme.

On 1<sup>st</sup> September in a [speech](#) to Udayana University, Minister Plibersek said:

*Without certificates, businesses wanting to invest in nature have to enter into long term contracts with landholders, or they need to buy land and become landholders themselves.*

*That's why we are establishing biodiversity certificates, as a simple means of transferring value – and the easiest way to connect buyers and sellers.*

The "[A Market for Biodiversity](#)" factsheet released on 30<sup>th</sup> August 2022 refers explicitly to biodiversity certificates, not credits.

The sharp inconsistencies in communications from the Department, the Minister for the Environment, and the Prime Minister - in addition to the extremely short consultation period – are hugely concerning. **Biodiversity certificates and biodiversity credits are fundamentally different policy instruments.**

As per the DCCEEW factsheet, a single biodiversity certificate is issued for a project, and provides *certification* of particular *inputs* or *activities* in a location. Where a certificate can be attached to an Australian Carbon Credit Unit (ACCU), it could certify that the ACCU has been generated in a way that has generally benefited biodiversity. A demand for "premium" ACCUs exists in the market for firms who wish to acquit or offset their carbon emissions whilst demonstrating some biodiversity credentials.

In contrast, a biodiversity credit represents a measurable biodiversity gain, often for *particular components of biodiversity* (such as a species, ecosystem or threatened ecological community) which can be traded (now, or at some point in the future) to *compensate for* or *offset* a measurable biodiversity loss. A demand for biodiversity credits exists in the market for firms who wish to compensate for or offset their impacts to biodiversity – such as under regulatory schemes (including the New South Wales Biodiversity Offsets Scheme (BOS), and the EPBC Act 1999 Environmental

Offsets Policy) and in the emerging “voluntary” space whereby currently unregulated firms are sourcing land and voluntary biodiversity credits to hedge against likely future compliance obligations.

In this “voluntary” space, firms are stating their current intentions<sup>4</sup> for purchasing biodiversity credits now as “corporate social responsibility” or “commencing our nature positive/sustainability journey”. Their future intentions, however, are likely to use these biodiversity credits to somehow compensate for biodiversity impacts that they have not yet quantified. This therefore opens the possibility for the use of credits to compensate for impacts to biodiversity in a way that falls well short of internationally recognised principles – including to avoid, minimise and mitigate impacts first, to compensate for the same components of biodiversity (i.e “like for like”) and for the amount of biodiversity gain to be equivalent to biodiversity losses (thus “offset”). Compensation that falls short of the amount of biodiversity impacts will not avert biodiversity decline.

The legislative and policy architecture required for a *certification* scheme is also fundamentally different for what is required for a *credit* scheme.

For biodiversity **certificates**, we (the public) need reasonable assurance that the *inputs* or *activities* (e.g planting trees, reducing grazing, erecting a fence) being certified in a location will deliver some kind of general biodiversity benefit. Monitoring, evaluation and compliance is needed to determine if the policy objective (a general biodiversity benefit) is met.

For biodiversity **credits**, we need reasonable assurance not only that that the biodiversity credit represents a measurable biodiversity gain – but also – that the credits is being used to effectively compensate for or *offset* an equivalent biodiversity loss. Monitoring, evaluation and compliance is needed on the credit or benefit side **AND** the loss or impact side, to determine whether a policy or societal objective (a no net loss, “improve or maintain”<sup>5</sup>, or nature positive) is met.

## **Concern #2: The overall policy objective, and the anticipated biodiversity outcomes, of the proposed National Biodiversity Market are unclear.**

There appears to be a general hope or assumption that a National Biodiversity Market will facilitate restoration of Australia’s biodiversity, funded by the private sector.

The likely biodiversity outcomes of such a market are largely a function of instrument choice (certificate vs credit) and private sector demand (magnitude and motivation).

It is crucial to understand that *in absence of strong and unambiguous limits to loss of biodiversity* (a “cap”), a **biodiversity credit simply represents a loss**. That loss may not yet be quantified. The only reasons why any firm would purchase biodiversity credits are to:

- acquit or offset a currently regulated biodiversity loss,
- arbitrage or “clip the ticket” for profit (noting that has zero material benefit for biodiversity),
- hold onto credits to use as (likely inadequate) compensation for biodiversity impacts under future anticipated compliance purposes (see above and footnote 4)

Because a biodiversity credit can be used to offset or compensate for a biodiversity loss, the magnitude of demand for biodiversity credits is simply driven by the amount and type of biodiversity

---

<sup>4</sup> A 2022 World Economic Forum publication stipulates that: “While biodiversity offsets and credits may look similar in design, what distinguishes them from each other is the **intention of the purchase and the claims that are made around that purchase**.... The purpose of the World Economic Forum’s initiative is to design biodiversity credits that are **part of a company’s nature-positive journey** – an investment in nature’s recovery, rather than an offset for damage” [bold added]

The publication however, fails to point out that a firm’s intentions and claims around a purchase may change in the future, particularly once such firms have quantified their currently unregulated biodiversity impacts, dependencies, risks and exposure. World Economic Forum, 2022. Biodiversity Credits: Unlocking Financial Markets for Nature-Positive Outcomes (Briefing Paper). [https://www3.weforum.org/docs/WEF\\_Biodiversity\\_Credit\\_Market\\_2022.pdf](https://www3.weforum.org/docs/WEF_Biodiversity_Credit_Market_2022.pdf)

<sup>5</sup> “Suitable offsets must... deliver an overall conservation outcome that **improves or maintains** the viability of the aspect of the environment that is protected by national environment law and affected by the proposed action” Australian Government, 2012. Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy. Department of Sustainability, Environment, Water, Population and Communities. Pg 6

impacts elsewhere – whether this is occurring under State, Territory and federal environmental laws and regulations, or in a currently unregulated manner. This is neatly highlighted by the NSW BOS, which a recent audit report found only 3% of biodiversity credits under the scheme are traded<sup>6</sup>, because these are the credits required to offset biodiversity in locations where development is occurring. It also shows that a voluntary biodiversity market will enable purchase of the “cheapest” forms of biodiversity first, which are not necessarily in most need of conservation or restoration. A core role of government is to protect biodiversity where there is no immediate commercial value.

**Under currently policy and regulatory settings, trade in biodiversity credits can at best maintain existing trajectories of biodiversity decline<sup>7</sup>.** Most biodiversity offset schemes – including those in Australia - are designed to deliver “no net loss” of biodiversity compared to a counterfactual “business as usual” scenario – which is of continued biodiversity decline. Since these schemes are not 100% effective, biodiversity crediting/offsetting usually worsens biodiversity decline<sup>8</sup>.

In contrast, a biodiversity certificate is not equipped to be traded to offset losses, as it represents inputs or activities, not measurable biodiversity gains for particular components of biodiversity.

**Certificates are not fungible, and therefore cannot and should not be used to offset or compensate for biodiversity losses elsewhere.**

Demand for biodiversity certificates – as attached to ACCUs – is primarily driven by firms who wish to acquit or offset their carbon emissions whilst demonstrating some biodiversity credentials. So there may well be a positive outcome for biodiversity with the issuance of certificates – noting that *in absence of strong and unambiguous limits to carbon emissions* (a “cap” or robust safeguard mechanism) - an ACCU simply represents a climate loss.

**Concern #3: There is an untested assumption that the private sector can and will invest at the scale required to effectively reverse the decline of biodiversity in Australia, and that the public sector cannot afford to do this alone.**

The Minister’s assertion that “*the scale of Australia’s biodiversity challenge means that governments can’t do the job alone*” is completely false. For a government that spends over \$10 billion per year of public money subsidising the extraction of fossil fuels, it is entirely possible for the public sector to finance biodiversity conservation to the magnitude required – \$1 to 2 billion per year – to avert the extinction of is ~1,900 nationally threatened species and ecological communities<sup>9</sup>. This is a political choice, not a biophysical reality.

Irrespective of this point, the assumption that the private sector is willing and motivated to invest in biodiversity *for reasons other than to offset or compensate for losses* at a scale that could have a significant conservation benefit, is totally untested.

In my current research<sup>10</sup>, I am finding that the only “biodiversity finance” flowing in Australia is either into carbon offsets, into property, agriculture or forestry assets. Those who want to invest in nature primarily want to do so at commercial rates: 8-20+% financial ROI per annum, with either a biodiversity “story” or measurable “impact”. Those who wish to invest in nature *without* a financial return do so already through philanthropic means. There is no reason why a philanthropic donor

---

<sup>6</sup> Audit Office of New South Wales, 2022. Performance Audit: Effectiveness of the Biodiversity Offsets Scheme (New South Wales Auditor-General’s Report). <https://www.audit.nsw.gov.au/our-work/reports/effectiveness-of-the-biodiversity-offsets-scheme>

<sup>7</sup> Maron, M., Brownlie, S., Bull, J.W., Evans, M.C., von Hase, A., Quétier, F., Watson, J.E.M., Gordon, A., 2018. The many meanings of no net loss in environmental policy. *Nature Sustainability* 1, 19–27. <https://doi.org/10.1038/s41893-017-0007-7>

<sup>8</sup> Maron, M., Bull, J.W., Evans, M.C., Gordon, A., 2015. Locking in loss: Baselines of decline in Australian biodiversity offset policies. *Biological Conservation* 192, 504–512. <https://doi.org/10.1016/j.biocon.2015.05.017>

<sup>9</sup> Wintle, B.A., Cadenhead, N.C.R., Morgain, R.A., Legge, S.M., Bekessy, S.A., Cantele, M., Possingham, H.P., Watson, J.E.M., Maron, M., Keith, D.A., Garnett, S.T., Woinarski, J.C.Z., Lindenmayer, D.B., 2019. Spending to save: What will it cost to halt Australia’s extinction crisis? *Conservation Letters* 12, e12682. <https://doi.org/10.1111/conl.12682>

<sup>10</sup> <https://megancevans.com/impact-investing-and-sustainable-finance>

would want to purchase credits or certificates, since such donors are typically more motivated to be engaged in the due diligence processes that the purchase of third-party credits or certificates removes the need for (assuming third-party assurance or certification is effective).

**Concern #4: The proposed National Biodiversity Market is set to replicate the regulatory architecture of the Emissions Reduction Fund – and be regulated by the Clean Energy Regulator – both of which are subject to independent review due to major integrity concerns**

That the Government is seeking submissions within a 14-day period for a National Biodiversity Market that is set to be modelled on a governance structure that is currently under independent review<sup>11</sup> – which is not due to report back until the end of 2022 - due to major integrity concerns<sup>12</sup>, is both mind-boggling and deeply concerning.

**Recommendations**

**1) Ensure that biodiversity certificates/credits cannot be used to offset biodiversity losses**

Although the Minister [has said that](#) "This is not designed to be an offset scheme to give developers an opportunity to buy these credits instead of protecting the natural environment," the scheme should not even make this available as an option – particularly while continued and unresolved problems with the federal environmental offset policy as outlined by the Samuel Review, in the NSW BOS as outlined by the NSW Auditor-General, and in the carbon credit scheme as currently reviewed by Professor Ian Chubb and colleagues.

**2) Pause development of the proposed National Biodiversity Market at least until the Chubb Review is completed**

The Clean Energy Regulator should not be given responsibilities to administer another environmental market whilst its role in the governance of ACCU's is being reviewed in response to major integrity concerns.

**3) Prioritise implementation of Professor Graeme Samuel's 38 "highly interconnected suite of recommendations" for reform of the EPBC Act**

The Australian Government has repeatedly stated it would *respond* to the Samuel Review's recommendations in full by the end of 2022. It however needs to commit to *implementing* the 38 "highly interconnected suite of recommendations" set out in the Final Report of the 2020 Independent Review of the EPBC Act.

To incentivise private sector investment in biodiversity conservation, the government must first disincentive private sector impacts to biodiversity, through improved regulation (i.e EPBC reform), and by enhancing public finance in biodiversity conservation. Creating new market infrastructure (particularly one modelled on a evidently broken carbon credit scheme) is very much putting the cart before the horse.

**4) Significantly increase public investment in biodiversity conservation**

We can easily afford it, it's a core role of government, and the private sector won't act effectively unless the public sector does so first<sup>13</sup>.

---

<sup>11</sup> Chris Bowen MP. Media Releases. 1 July 2022. Independent Review of ACCUs. <https://minister.dcceew.gov.au/bowen/media-releases/independent-review-accus>

<sup>12</sup> Macintosh, A., Butler, D., **Evans, M.C.**, 2022. Australia's central climate policy pays people to grow trees that already existed. Taxpayers – and the environment – deserve better. *The Conversation*. <http://theconversation.com/australias-central-climate-policy-pays-people-to-grow-trees-that-already-existed-taxpayers-and-the-environment-deserve-better-186900>

<sup>13</sup> **Evans, M.**, 2020. The magic of the market won't help the environment unless government also takes responsibility <http://www.theguardian.com/commentisfree/2020/jul/21/the-magic-of-the-market-wont-help-the-environment-unless-government-also-takes-responsibility>