

## **EXPLANATORY STATEMENT**

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

*Nature Repair Act 2023*

*Nature Repair (Committee) Rules 2024*

### **Legislative authority**

The *Nature Repair Act 2023* (the Nature Repair Act) establishes the framework for a voluntary national market to deliver improved biodiversity outcomes.

Subsection 237(1) of the Nature Repair Act provides that the Minister may, by legislative instrument, make rules prescribing matters required or permitted by the Act to be prescribed by the rules or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 201(1) of the Nature Repair Act provides that the rules may prescribe the procedures to be followed at or in relation to meetings of the Nature Repair Committee (the Committee). This includes matters relating to:

- the convening of meetings of the Committee;
- the number of Committee members who are to constitute a quorum;
- the selection of a Committee member to preside at meetings of the Committee in the absence of the Chair of the Committee;
- the manner in which questions arising at a meeting of the Committee are to be decided.

### **Purpose**

The purpose of the *Nature Repair (Committee) Rules 2024* (the Committee Rules) is to prescribe procedures to be followed at or in relation to meetings of the Committee. This will support the Committee to perform its functions under the Nature Repair Act.

The Committee is a ministerially appointed group of independent experts with substantial experience or knowledge, and significant standing, in at least one specified field of expertise. The Committee will be responsible for a range of functions, which are set out in section 195 of the Nature Repair Act. These functions include providing advice on methodology determinations and biodiversity assessment instruments.

### **Background**

The Nature Repair Act establishes the framework for a voluntary national market to deliver improved biodiversity outcomes. Eligible landholders who undertake projects that enhance or protect biodiversity will be able to receive a tradeable biodiversity certificate that will be tracked through a national register.

Biodiversity projects will need to comply with an applicable methodology determination, which will set requirements for how a project is to be carried out. A methodology determination will need to comply with a biodiversity assessment instrument, which will set

consistent requirements for how a methodology determination measures and assesses biodiversity.

The Committee will, among other functions, be responsible for providing advice to the Minister or Secretary on certain matters relating to methodology determinations and biodiversity assessment instruments.

### **Impact and effect**

The Committee Rules prescribe the procedures to be followed at or in relation to meetings of the Committee. This includes the:

- procedures at meetings including frequency, method of meeting, and the role of the secretariat;
- quorum at meetings, including where the Chair or a member cannot participate;
- requirement of the Chair to preside at meetings, and the process to select an acting Chair in their absence; and
- manner of deciding questions by resolution, including when a resolution is taken to have been passed.

### **Pre-conditions to making the Committee Rules**

The Nature Repair Act does not specify any conditions that need to be satisfied before the power to make the Committee Rules may be exercised.

### **Consultation**

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

### **Details and operation**

Details of the Committee Rules is set out in Attachment A.

The Committee Rules commence on the day after the instrument is registered on the Federal Register of Legislation.

### **Other matters**

The Committee Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Committee Rules are 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 (Committee) Rule 2024***

**Part 1 - Preliminary**

**Section 1 – Name**

1. Section 1 provides that the name of the instrument is the *Nature Repair (Committee) Rules 2024* (the Committee Rules).

**Section 2 - Commencement**

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

**Section 3 - Authority**

5. Section 3 provides that the Committee Rules are made under the *Nature Repair Act 2023*.

**Section 4 - Definitions**

6. Section 4 defines the term *Act* for the purpose of the Committee Rules. The term *Act* refers to the *Nature Repair Act 2023*.
7. The note at the beginning of the section clarifies that the terms *Nature Repair Committee* and *Nature Repair Committee member* included in the Committee Rules are defined in the Nature Repair Act.

**Part 2 – Nature Repair Committee**

**Section 5 – Operation of this Part**

8. Section 5 provides that Part 2 of the Committee Rules sets out the procedures for meetings of the Nature Repair Committee (the Committee).

**Section 6 – Procedure at meetings**

9. Section 6 sets out the procedures relating to the convening of meetings of the Committee.

10. Subsections 6(1) and (2) have the combined effect that the Committee must hold meetings as are necessary to perform its functions under the Nature Repair Act, which may be conducted either face-to-face or via teleconference.
11. Subsection 6(3) provides that the Secretariat of the Committee is to:
  - a. take minutes of Committee meetings; and
  - b. convene Committee meetings at any time or at the request of the Chair of the Committee.

#### Section 7 – Quorum at meetings

12. Section 7 sets out the procedures relating to the number of Committee members that are to constitute a quorum at meetings of the Committee.
13. Subsection 7(1) provides that a quorum for a Committee meeting is 4 Committee members. Under subsection 7(2), this must include the Chair of the Committee, except in the following circumstances:
  - a. where the Chair is prevented from participating in deliberation or decision on a particular matter due to a disclosure of interest under section 203 of the Nature Repair Act;
  - b. where there is no Chair appointed;
  - c. where the Chair is incapacitated; or
  - d. where the Chair informs the Committee their presence is not necessary for quorum at a particular meeting.
14. Subsection 7(3) has the effect that a quorum for a Committee meeting can be 3 Committee members (instead of the ordinarily required 4) where a disclosure of interest by a member of the Committee under section 203 of the Nature Repair Act prevents that member from participating in deliberation or decisions with respect to a particular matter and is required to leave the meeting, and the number of members still remaining at the meeting is 3. In these circumstances, the remaining members at the meeting constitute a quorum for the purpose of any deliberation or decision at the meeting with respect to that matter.

#### Section 8 – Presiding at meetings

15. Section 8 sets out the procedures relating to the selection of a Committee member to preside at meetings of the Committee in the absence of the Chair.
16. The general rule is that the Chair of the Committee must preside at all meetings, unless one of the following situations apply:

- a. The Chair is prevented from participating in the deliberations or decisions of the Committee relation to a particular matter due to a disclosure of interest under section 203 of the Nature Repair Act. In these circumstances paragraph 8(2)(a) allows the Committee to appoint a Chair from the members present to preside at the meeting concerned during any deliberation or decision with respect to that matter; or
- b. There is no Chair appointed or the Chair is absent from the meeting. In these circumstances, paragraph 8(2)(b) allows the Committee to appoint a Chair from the members present to preside at the meeting.

#### Section 9 – Manner of deciding questions

17. Section 9 sets out the procedures relating to the manner in which questions arising at a meeting of the Committee are to be decided.
18. Subsection 9(1) provides that any question arising at a Committee meeting must be determined by resolution.
19. Subsection 9(2) provides that a resolution is taken to be passed if more than half the present and voting members vote for the resolution and either:
  - a. all members were either informed of the proposed resolution; or
  - b. reasonable efforts were made to inform them of the proposed resolution.

**Statement of Compatibility with Human Rights**

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

*Nature Repair (Committee) Rules 2024*

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

**Overview of the Legislative Instrument**

The *Nature Repair Act 2023* (Nature Repair Act) establishes the framework for a voluntary national market to deliver improved biodiversity outcomes. Eligible landholders who undertake projects that enhance or protect biodiversity would be able to receive a tradeable biodiversity certificate that will be tracked through a national register.

The purpose of the *Nature Repair (Committee) Rules 2024* (the Committee Rules) is to prescribe procedures to be followed at or in relation to meetings of the Committee. This will support the Committee to perform its functions under the Nature Repair Act.

The Committee is a ministerially appointed group of independent experts with substantial experience or knowledge, and significant standing, in specified fields of expertise. The Committee will be responsible for a range of functions, which are set out in section 195 of the Nature Repair Act. These functions include providing advice on methodology determinations and biodiversity assessment instruments.

Specifically, the Committee Rules prescribes procedures to be followed at or in relation to the Committee's meetings. This includes the:

- procedures at meetings including frequency, method of meeting, and role of the secretariat;
- quorum at meetings, including where the Chair or a member cannot participate;
- requirement of the Chair to preside at meetings, and the process to select an acting Chair in their absence; and
- manner of deciding questions at a meeting by resolution, including when a resolution is taken to have been passed.

**Human rights implications**

The Committee Rules do not engage any of the applicable rights or freedoms.

**Conclusion**

The Committee Rules are compatible with human rights as they do not raise any human rights issues.

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