

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

*Financial Framework (Supplementary Powers) Amendment
(Defence Measures No. 4) Regulations 2017*

The *Financial Framework (Supplementary Powers) Act 1997* (the FF(SP) Act) confers on the Commonwealth, in certain circumstances, powers to make arrangements under which money can be spent; or to make grants of financial assistance; and to form, or otherwise be involved in, companies. The arrangements, grants, programs and companies (or classes of arrangements or grants in relation to which the powers are conferred) are specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (the Principal Regulations). The FF(SP) Act applies to Ministers and the accountable authorities of non-corporate Commonwealth entities, as defined under section 12 of the *Public Governance, Performance and Accountability Act 2013*.

Section 65 of the FF(SP) Act provides that the Governor-General may make regulations prescribing matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

Section 32B of the FF(SP) Act authorises the Commonwealth to make, vary and administer arrangements and grants specified in the Principal Regulations. Section 32B also authorises the Commonwealth to make, vary and administer arrangements for the purposes of programs specified in the Principal Regulations. Schedule 1AA and Schedule 1AB to the Principal Regulations specify the arrangements, grants and programs.

Schedule 1 to the *Financial Framework (Supplementary Powers) Amendment (Defence Measures No. 4) Regulations 2017* (the Regulations) amends Schedule 1AB to the Principal Regulations to establish legislative authority for the Government to fund the establishment, development and operation of the Naval Shipbuilding College (the College).

The College is a key initiative of the Naval Shipbuilding Plan, released on 16 May 2017, which sets out the Government's plans for a generations-long national endeavour to build and sustain Australia's naval capabilities through a national naval shipbuilding enterprise. The College, which will be established progressively and headquartered at the Osborne Naval Shipyard in South Australia, will be responsible for developing and sustaining a coordinated, national approach to workforce development and skilling across the naval shipbuilding enterprise in partnership with employers.

Funding of \$62 million for the establishment of the College will be included in the *Mid-Year Economic and Fiscal Outlook 2017-18*. The funding will be provided for four years commencing in 2017-18.

The Department of Defence has responsibility for the College, which will be managed and operated by a service provider under a hub and spoke model with existing education and training providers across Australia.

Details of the Regulations are set out at Attachment A. A Statement of Compatibility with Human Rights is at Attachment B.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. The Regulations commence on the day after the instrument is registered on the Federal Register of Legislation.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, consultation has taken place with the Department of Defence.

A regulation impact statement is not required as the Regulations only apply to non-corporate Commonwealth entities and do not adversely affect the private sector.

Details of the *Financial Framework (Supplementary Powers) Amendment (Defence Measures No. 4) Regulations 2017*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Defence Measures No. 4) Regulations 2017*.

Section 2 – Commencement

This section provides that the Regulations commence on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the Regulations are made under the *Financial Framework (Supplementary Powers) Act 1997*.

Section 4 – Schedules

This section provides that the *Financial Framework (Supplementary Powers) Regulations 1997* are amended as set out in the Schedule to the Regulations.

Schedule 1 – Amendments

Item 1 – In the appropriate position in Part 4 of Schedule 1AB (table)

This item adds a new table item to Part 4 of Schedule 1AB to establish legislative authority for government spending on an initiative that falls within the responsibility of the Department of Defence.

New **table item 260** establishes legislative authority for government spending on the establishment, development and operation of the Naval Shipbuilding College (the College).

The College is a key initiative of the Naval Shipbuilding Plan, which was released on 16 May 2017 by the Prime Minister, the Hon Malcolm Turnbull MP; the Minister for Defence, Senator the Hon Marise Payne; and the Minister for Defence Industry, the Hon Christopher Pyne MP (www.pm.gov.au/media/securing-australias-naval-shipbuilding-and-sustainment-industry).

The Naval Shipbuilding Plan complements the strategic, capability investment, and industry plans for the Defence portfolio that were set out in the Government's 2016 Defence White Paper, the 2016 Integrated Investment Program and the 2016 Defence Industry Policy Statement. The Plan, which is available at www.defence.gov.au/navalshipbuildingplan/, sets out the Government's plans for a generations-long national endeavour to build and sustain Australia's naval capabilities through a national naval shipbuilding enterprise. This involves an investment of around \$90 billion in new naval capabilities through submarine acquisition, continuous build programs for major surface combatants and minor naval vessels, and navy fleet sustainment.

Over the next ten to fifteen years, the size and skill level of the naval shipbuilding and sustainment workforce will need to increase significantly to meet the demands created by the Government's planned investments in naval shipbuilding. A highly capable, productive and skilled workforce is required within the naval shipbuilding enterprise if the Naval Shipbuilding Plan is to be achieved.

On 24 March 2017, the Minister for Defence Industry, the Hon Christopher Pyne MP, the Minister for Education and Training, Senator the Hon Simon Birmingham, and the Assistant Minister for Vocational Education and Training, the Hon Karen Andrews MP, announced the establishment of the Naval Shipbuilding College (previously known as the Maritime Technical College) (www.minister.defence.gov.au/minister/christopher-pyne/media-releases/joint-media-release-maritime-technical-college-train).

The College will be responsible for developing and sustaining a coordinated, national approach to workforce development and skilling across the naval shipbuilding enterprise in partnership with employers.

The College will have three critical roles:

- the identification of naval shipbuilding skills requirements;
- the oversight of the provision of education and training; and
- the management of the talent pool in the transition from adjacent sectors or from finalising their qualifications and joining the shipbuilding workforce.

The College will be implemented progressively over three phases as the needs of the naval shipbuilding industry evolve, with progress to the next phase dependent on the success of the preceding phase. It will be delivered by a service provider under a hub and spoke model, leveraging the expertise of Australian and international shipbuilding companies and education and training providers to deliver on its outcomes.

The first phase of the College will commence in early 2018 with a focus on increasing key entry-level trade qualifications. The first phase may also include semi-professional and higher education qualifications such as computer-aided design, technical project management, production support, naval architecture, and marine engineering.

Following an open tender for the first phase of the College conducted by the Department of Defence in the second half of 2017, the successful tenderer will contract with selected education and training providers across Australia to offer these qualifications, with training customised to the greatest extent possible to naval shipbuilding and advanced manufacturing. The College will also undertake a coordination and outreach role engaging with industry, government stakeholders and education providers.

During the first phase, the College will develop a national communications strategy to attract Australian workers and students to the naval shipbuilding sector. The communications strategy will include a naval shipbuilding career awareness program to encourage school leavers to consider the naval shipbuilding sector as a career path. This program will be supplemented by a similar program targeting adult workers including those in adjacent industries such as automotive, mining, and oil and gas.

The second phase of the College would commence around 2020-21, subject to successful implementation of the first phase and Government agreement. The College would continue the first phase activities to increase the capacity, quality and throughput in key entry-level trades, and would further expand the capacity and throughput of students in key higher education qualifications, such as naval architect/engineer, from universities. It would also provide shorter courses, including specialist shipbuilding skills, and bridging programs for qualified workers from adjacent industries.

The third phase of the College would commence around 2022-23, subject to successful implementation of the second phase and Government agreement, with the development of a purpose-built training facility located close to the Osborne Naval Shipyard. Following thorough assessment and consultation with government and industry partners, the College could offer a full range of naval shipbuilding education and training.

Funding of \$62 million for the establishment of the College will be included in the *Mid-Year Economic and Fiscal Outlook 2017-18* for four years commencing in 2017-18.

The service provider for the first phase of the College was selected through a two-stage procurement process: a Request for Proposal and a Request for Tender. Both stages were conducted using an open tender process, with information about procurement opportunities and decisions published on the AusTender website at www.tenders.gov.au. All responses from potential suppliers were assessed by departmental officials, and the procurement process was overseen by an independent assurance panel and an independent probity adviser. Following finalisation of contract negotiations, the final funding decision will be made by a delegate of the Secretary of the department.

The funding decision made in connection with the College will not be subject to independent review as it relates to procurement activities conducted in accordance with the requirements of the Commonwealth's resource management framework, including the *Commonwealth Procurement Rules* and the *Public Governance, Performance and Accountability Act 2013*. The service provider was selected on the basis of technical expertise, capability and value for money.

Funding for this item will come from Program 2.1: Strategic Policy and Intelligence, which is part of Outcome 2. Details will be set out in the *Portfolio Additional Estimates Statements 2017-18, Defence Portfolio*.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the defence power (section 51(vi)) of the Constitution.

The program aims to improve Australia's defence capabilities by establishing the College to identify, train and retrain workers for the naval shipbuilding enterprise.

Statement of Compatibility with Human Rights

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

Financial Framework (Supplementary Powers) Amendment (Defence Measures No. 4) Regulations 2017

These Regulations are 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

Section 32B of the *Financial Framework (Supplementary Powers) Act 1997* (the FF(SP) Act) authorises the Commonwealth to make, vary and administer arrangements and grants specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (the FF(SP) Regulations) and to make, vary and administer arrangements and grants for the purposes of programs specified in the Regulations. Schedule 1AA and Schedule 1AB to the FF(SP) Regulations specify the arrangements, grants and programs. The FF(SP) Act applies to Ministers and the accountable authorities of non-corporate Commonwealth entities, as defined under section 12 of the *Public Governance, Performance and Accountability Act 2013*.

The Regulations amend Schedule 1AB to the FF(SP) Regulations to establish legislative authority for the Government to fund the establishment, development and operation of the Naval Shipbuilding College (the College).

The College is a key initiative of the Naval Shipbuilding Plan, released on 16 May 2017, which sets out the Government's plans for a generations-long national endeavour to build and sustain Australia's naval capabilities through a national naval shipbuilding enterprise. The College, which will be established progressively and headquartered at the Osborne Naval Shipyard in South Australia, will be responsible for developing and sustaining a coordinated, national approach to workforce development and skilling across the naval shipbuilding enterprise in partnership with employers.

The Department of Defence has responsibility for the College, which will be managed and operated by a service provider under a hub and spoke model with existing education and training providers across Australia.

The Minister for Defence Industry has responsibility for this initiative.

Human rights implications

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

Conclusion

These Regulations are compatible with human rights as they do not raise any human rights issues.

**Senator the Hon Mathias Cormann
Minister for Finance**