

EXPLANATORY STATEMENT

Issued by the authority of the Assistant Minister for Forestry and Fisheries | Parliamentary Secretary to the Minister for Agriculture, Drought and Emergency Management

Industry Research and Development Act 1986

Industry Research and Development (Forestry Recovery Development Fund Program) Instrument 2020

Purpose and Operation

Section 33 of the *Industry Research and Development Act 1986* (the IR&D Act) provides a mechanism for the Minister to prescribe programs, by disallowable legislative instrument, in relation to industry, innovation, science or research, including in relation to the expenditure of Commonwealth money under such programs.

The Minister for Industry, Science and Technology has delegated the Minister's power under subsection 33(1) to the Assistant Minister for Forestry and Fisheries, under subsection 33(6) of the IR&D Act to prescribe the Forestry Recovery Development Fund Program (the Program).

The statutory framework provided by s33 of the IR&D Act enables a level of flexibility to provide authority for Commonwealth spending activities in relation to industry, innovation, science and research programs. This allows the Government to respond quickly and appropriately to the need to implement innovative ideas and pilot programs on an ongoing basis and as opportunities arise. Prescribing programs in legislative instruments provides transparency and parliamentary oversight of Government programs and spending activities, whilst reducing administrative burden on the Commonwealth.

Once a program is prescribed by the Minister under s33, subsection 34(1) allows the Commonwealth to make, vary or administer arrangements in relation to activities under the prescribed program. Arrangements may include contracts, funding agreements or other arrangements, and may provide for money to be payable by the Commonwealth to one or more third parties. The power conferred on the Commonwealth by subsection 34(1) may be exercised on behalf of the Commonwealth by a Minister or an accountable authority of a non-corporate entity, or by their delegate (under s36).

The purpose of the *Industry Research and Development (Forestry Recovery Development Fund Program) Instrument 2020* (the Legislative Instrument) is to prescribe the Program. The funding for the Program has been secured through the Department of Agriculture, Water and Environment 2020-21 Budget.

The Program provides \$40 million as part of the Australian Government's commitment to strengthen medium to long-term forestry industry recovery from the 2019-20 bushfires. Through competitive grants, the Program will strengthen industry and government

cooperation to upgrade and secure forestry processing assets while safeguarding and creating jobs in our forestry communities.

The intended outcomes of the Program are to support industry to adopt smarter, more efficient practices in product processing and forestry operations and to provide for regional jobs and support regional communities. Grants will be used to develop new wood products, or secure the capacity to deliver existing products, that are intended to be sold solely or mainly into interstate and/or international markets.

Funding is available to wood processing facilities that have been adversely affected by the 2019-20 bushfires to undertake eligible projects to invest in upgrades to existing manufacturing lines, as well as diversification and innovation to produce value-added wood products.

Funding authorised by this Legislative Instrument comes from Program 3.3: Forestry Industry, Outcome 3. Details will be set out in the Portfolio Budget Statements 2020-21, Budget Related Paper No. [1.1] Agriculture, Water and Environment Portfolio.

The Program will be delivered by the Community Grants Hub, which is a specialised design, management and delivery body with extensive expertise and capability in delivering similar programs.

The Program is a competitive, merits-based grants program. The Program is administered by the Department of Agriculture, Water and the Environment (the Department) in accordance with the *Commonwealth Grant Rules and Guidelines 2017* (<http://www.finance.gov.au/sites/default/files/commonwealth-grants-rules-and-guidelines.pdf>). Eligibility and merit criteria will be outlined in the Program guidelines, which will be made available on the Department's website.

Spending decisions will be made by the Program Delegate (who will be a delegate of the Assistant Minister for Forestry and Fisheries).

Grants will be a minimum of \$1 million up to a maximum of \$5 million. The grant amount from the Commonwealth will be up to 50 per cent of eligible project costs and may include funding from other sources including state and territory governments. The applicant will be required to contribute 50 per cent towards the grant activities. Applicants will not be able to use funding from other Commonwealth, state, territory, or local government sources to fund their share of eligible expenditure.

The Program involves the allocation of finite resources between competing applicants. In addition, there is a robust and extensive assessment process, an enquiry and feedback process, and a complaints mechanism for affected applicants. Therefore, external merits review does not apply to decisions about the provision of grants under the Program.

Applications will be assessed against the eligibility criteria and assessment criteria set out in the Program guidelines. An expert panel, including industry experts and departmental staff, will be established to provide advice on the grant applications to ensure appropriateness,

capability to assess each application on its merit and compare it to other eligible applications. The panel recommendations will include consideration of appropriateness, ability to deliver and market need.

The Program Delegate will make the final decision about which grants to approve, taking into consideration the expert panel's recommendations, and the availability of grant funds.

Both successful and unsuccessful applicants will be informed in writing. Unsuccessful applicants have an opportunity to apply for written feedback. The process for requesting feedback will be included in the letter advising of the outcome of their application.

Persons who are otherwise affected by decisions or who have complaints about the Program will also have recourse to the Department. The Department will investigate any complaints about the Program in accordance with its complaints policy and procedures. If a person is not satisfied with the way the Department handles the complaint, they may lodge a complaint with the Commonwealth Ombudsman.

Trade and commerce power

Section 51(i) of the Constitution empowers the Parliament to make laws with respect to 'trade and commerce with other countries, and among the states'.

The Program prescribed by the Legislative Instrument is aimed at assisting wood processing facilities to develop new wood products, or secure their capacity to continue to deliver existing products, that they intend to sell solely or mainly into interstate and/or international markets.

Territories power

Section 122 of the Constitution empowers the Parliament to 'make laws for the government of any territory'.

The funding provided under the Legislative Instrument will be directed towards assisting wood processing facilities based in a territory.

Authority

Section 33 of the *Industry Research and Development Act 1986* provides authority for the Legislative Instrument.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, the Attorney-General's Department and the Department of Industry, Science, Energy and Resources have been consulted on this Legislative Instrument.

Regulatory Impact

It is estimated that the regulatory burden is likely to be minor (OBPR reference number 42613).

Details of the *Industry Research and Development (Forestry Recovery Development Fund Program) Instrument 2020*

Section 1 – Name of Instrument

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Forestry Recovery Development Fund Program) Instrument 2020*.

Section 2 – Commencement

This section provides that the Legislative Instrument commences on the day after registration on the Federal Register of Legislation.

Section 3 – Authority

This section specifies the provision of the *Industry, Research and Development Act 1986* (the Act) under which the Legislative Instrument is made.

Section 4 – Definitions

This item provides for definitions of terms used in the Legislative Instrument.

Section 5 – Prescribed Program

This section prescribes the Forestry Recovery Development Fund Program (the program) for the purposes of section 33 of the Act. The program will provide funding in the form of grants to wood processing facilities that have been impacted by the 2019-20 bushfires to undertake eligible projects to upgrade existing facilities and technology; install new facilities that complement existing activities and undertake other adjustments or diversification to make their business more resilient. To be eligible, applicants will need to demonstrate that they will use the grant to develop new products or secure their capacity to continue to deliver existing products, that they intend to sell solely or mainly into interstate and/or international markets.

Section 6 – Specified Legislative Power

This section specifies that the legislative powers in respect of which the Legislative Instrument is made are the powers of the Parliament to make laws with respect to the trade and commerce with other countries, and among the States (within the meaning of paragraph 51(i) of the Constitution) and the government of a Territory (within the meaning of section 122 of the Constitution).

Statement of Compatibility with Human Rights

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

*Industry Research and Development (Forestry Recovery Development Fund Program)
Instrument 2020*

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 object of the Legislative Instrument is to prescribe the Forestry Recovery Development Fund Program (the Program). The purpose of this \$40 million Program is to support the recovery of the forestry industry from the 2019-20 bushfires by strengthening industry and government cooperation to upgrade and secure forestry processing assets while safeguarding and creating jobs in our forestry communities.

The Program will provide competitive grants of between \$1 million and \$5 million to develop new wood products, or secure the capacity to deliver existing products, that are intended to be sold solely or mainly into interstate and/or international markets. Funding is available to successful wood processing facilities that have been impacted by the 2019-20 bushfires to undertake eligible projects to upgrade existing facilities and technology; install new facilities that complement existing activities and undertake other adjustments or diversification to make their business more resilient.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Senator the Hon. Jonathon Duniam

**Assistant Minister for Forestry and Fisheries | Parliamentary Secretary to the Minister
for Agriculture, Drought and Emergency Management**