# EXPLANATORY STATEMENT

**Issued by the Authority of the Minister for Finance**

*Public Governance, Performance and Accountability Act 2013*

*Public Governance, Performance and Accountability Rule 2014*

*Public Governance, Performance and Accountability Amendment (Infrastructure and Project Financing Agency) Rules 2021*

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) set out a framework for regulating resource management by Commonwealth entities and companies. Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

The *Public Governance, Performance and Accountability Amendment (Infrastructure and Project Financing Agency) Rules 2021* (Amendment Rules) amends Schedule 1 to the PGPA Rule by:

* repealing clause 11A, which prescribes the Infrastructure and Project Financing Agency (IPFA) as a listed entity and;
* amending subparagraph 13(e)(vi) which prescribes that a purpose of the National Faster Rail Agency is to work in partnership with the IPFA to explore alternative funding and financing options for faster rail, such as private sector contributions and value capture opportunities.

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

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

The Amendment Rules commence on 1 May 2021.

**Consultation**

The Amendment Rules were developed by the Office of Parliamentary Counsel in consultation with the Department of the Prime Minister and Cabinet and the Department of Infrastructure, Transport, Regional Development and Communications in accordance with section 17 of the *Legislation Act 2003*.

**Details of the *Public Governance, Performance and Accountability Amendment (Infrastructure and Project Financing Agency) Rules 2021***

**Section 1 – Name**

This section provides that the title of this instrument is the *Public Governance, Performance and Accountability Amendment (Infrastructure and Project Financing Agency) Rules 2021.*

**Section 2 – Commencement**

This section provides that this instrument commences on 1 May 2021.

**Section 3 – Authority**

This section provides that this instrument is made under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

**Section 4 – Schedules**

This section provides that the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) is amended as set out in Schedule 1 to this instrument.

**Schedule 1 – Amendments**

***Public Governance, Performance and Accountability Rule 2014***

**Item 1 – Clause 11A of Schedule 1**

This item repeals clause 11A of Schedule 1 of the PGPA Rule which prescribes the Infrastructure and Project Financing Agency (IPFA) as a listed entity. The IPFA was abolished as an Executive Agency and will continue as a separately branded activity within the Department of the Treasury’s administrative structure.

**Item 2 – Subparagraph 13(e)(vi) of Schedule 1**

This item amends subparagraph 13(e)(vi) of Schedule 1 of the PGPA Rule.

Clause 13 prescribes the National Faster Rail Agency (NFRA) as a listed entity and paragraph (e) describes its purposes. Subparagraph 13(e)(vi) describes a purpose of the NFRA as to work in partnership with the IPFA to explore alternative funding and financing options for faster rail, such as private sector contributions and value capture opportunities.

This item will substitute the reference to the IPFA with “other relevant Commonwealth entities”, reflecting that the IPFA will continue as a branded function within the Department of the Treasury.

**Statement of Compatibility with Human Rights**

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

***Public Governance, Performance and Accountability Amendment (Infrastructure and Project Financing Agency) Rules 2021***

The ***Public Governance, Performance and Accountability Amendment (Infrastructure and Project Financing Agency) Rules 2021*** (Amendment Rules) 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 *Public Governance, Performance and Accountability Act 2013* (PGPA Act) establishes a framework for regulating resource management by Commonwealth entities and companies. Section 101 of the PGPA Act provides that the Minister for Finance may make rules by legislative instrument to prescribe matters giving effect to the Act.

The Amendment Rules amend Schedule 1 tothe *Public Governance, Performance and Accountability Rule 2014* made under the PGPA Act by:

* repealing clause 11A which prescribes the Infrastructure and Project Financing Agency (IPFA) as a listed entity and;
* amending subparagraph 13(e)(vi) which prescribes that a purpose of the National Faster Rail Agency is to work in partnership with the IPFA to explore alternative funding and financing options for faster rail, such as private sector contributions and value capture opportunities.

**Human rights implications**

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

**Conclusion**

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

**Senator the Hon Simon Birmingham**

**Minister for Finance**