

## **EXPLANATORY STATEMENT**

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

*Financial Framework (Supplementary Powers) Act 1997*

*Financial Framework (Supplementary Powers) Amendment  
(Agriculture, Water and the Environment Measures No. 3) Regulations 2021*

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 powers in the FF(SP) Act to make, vary or administer arrangements or grants may be exercised on behalf of the Commonwealth by 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 the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the 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.

The *Financial Framework (Supplementary Powers) Amendment (Agriculture, Water and the Environment Measures No. 3) Regulations 2021* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on certain activities administered by the Department of Agriculture, Water and the Environment.

Funding is provided for:

- additional activities under the Agriculture Stewardship Package, which promotes the adoption of sustainable practices on farms across Australia. The new funding activities aim to test the concept of buying and selling biodiversity improvement services from farmers, and how the Commonwealth can leverage growing interest in biodiversity outcomes from private investors (\$32.1 million over four years from 2021-22);
- the Blue Carbon Ecosystems program, which will support projects in regional Australia and in foreign countries that relate to restoring coastal ecosystems and demonstrating environmental economic accounting, and international events and partnerships relating to blue carbon and rainforests (\$30.6 million over four years from 2021-22);
- a one-off, ad hoc grant to modify, expand, implement and raise awareness of the Australian Farm Data Code, which aims to address farmers' mistrust in how data is collected, used and shared (\$0.5 million over three years from 2021-22); and

- the AgCAREERSTART pilot, the AgUP grants program and the Modern Workforce Management and Planning Practices Project, which aim to assist in shifting perceptions of agriculture, improve the reputation of the agricultural sector as an employer, and build workforce management and planning skills (\$16.4 million over four years from 2021-22).

Funding for these initiatives was included in the 2021-22 Budget.

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 Agriculture, Water and the Environment.

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 (Agriculture, Water and the Environment Measures No. 3) Regulations 2021***

**Section 1 – Name**

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Agriculture, Water and the Environment Measures No. 3) Regulations 2021*.

**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**

***Financial Framework (Supplementary Powers) Regulations 1997***

**Item 1 – Part 4 of Schedule 1AB (table item 368, column headed “Objective(s)”)**

This item amends **table item 368** in Part 4 of Schedule 1AB by omitting all the words after “farming practices.”, and substituting the full text for the additional operation provision. The amended table item 368 establishes legislative authority for government spending on additional activities under the Agriculture Stewardship Package, which helps farmers improve on-farm land management practices. The Agriculture Stewardship Package seeks to improve biodiversity by creating a system that would reward farmers for protecting biodiversity. The Agriculture Stewardship Package is administered by the Department of Agriculture, Water and the Environment (the department).

The additional components aim to test the concept of buying and selling biodiversity improvement services from farmers, and how the Commonwealth can leverage growing interest in biodiversity outcomes from private investors. Over time, the aim is to create a credible market mechanism that improves biodiversity and creates new income opportunities for farmers.

Key deliverables include trialling the Enhancing Remnant Vegetation Pilot, implementing the Australian Farm Biodiversity Certification Scheme, and developing a biodiversity trading platform to link buyers and sellers of biodiversity services.

### *Enhancing Remnant Vegetation Pilot*

Funding of \$22.3 million over four years from 2021-22 will be provided to the Enhancing Remnant Vegetation Pilot (the ERV Pilot), which aims to improve existing native vegetation on farms. The ERV Pilot seeks to encourage farmers to participate in a trial to improve the protection and management of existing high value native vegetation on their properties. The ERV Pilot is needed to trial a market-based approach for land managers to improve their on-farm biodiversity stewardship and deliver public good biodiversity outcomes.

The ERV Pilot's geographical coverage will initially target six Natural Resource Management regions across Australia. These regions will be chosen to test the ERV Pilot across a range of farming systems, vegetation types and jurisdictions to generate the necessary data to effectively trial the ERV Pilot's policy objectives. Selection criteria have been developed by the department in collaboration with expert advisers at the Australian National University (ANU). The Minister for Agriculture, Drought and Emergency Management (the responsible Minister) will approve the choice of regions.

The ERV Pilot's expected outcome is to increase the number of farmers maintaining and improving high value native vegetation on farm. It will also enable a scientific assessment of the biodiversity protocols developed by the ANU through the Agriculture Stewardship Package's initial funding.

Under the ERV Pilot, farmers could apply to receive a price offer for a commitment to long-term management actions. Projects will be selected based on the expected biodiversity benefits relative to the costs to the Commonwealth, while ensuring a statistically valid level of testing in each region. Participating farmers will be required to improve their protection and management of existing on-farm vegetation (under long-term legal commitments) to receive payments. This will predominantly deliver a public benefit, but any private benefits will be accounted for through a competitive bidding arrangement.

The ERV Pilot is scheduled to begin in September 2021.

### *Australian Farm Biodiversity Certification Scheme*

Funding of \$5.4 million over three years from 2021-22 will be provided to implement the Australian Farm Biodiversity Certification Scheme (the Certification Scheme). The Certification Scheme aims to deliver a premium price and keep up with growing market demand for improved environmental credentials for Australian food and fibre. The Certification Scheme will take the existing technical design into the real world operation, providing a credible, independent assessment of the activities farmers are undertaking to protect biodiversity, certifying participating farms as 'biodiversity friendly'.

The Certification Scheme is needed to provide farmers with one of the tools to remain domestically and internationally competitive and to showcase Australian farmers' biodiversity stewardship against increasing global demand for higher environmental credentials. The expected outcome is to provide a certification option that farmers can use to market their contribution to biodiversity improvement where appropriate.

The Certification Scheme was initially developed and trialled by the ANU using grant funding of \$3.4 million provided under the Agriculture Stewardship Package. The initial stage of the Certification Scheme enabled the development of technical protocols to underpin its operation. The Certification Scheme is being trialled alongside the rollout of the Carbon + Biodiversity Pilot.

Additional funding is provided to implement the Certification Scheme, which is expected to roll out in 2022, following technical trials and consultation in 2021. This funding will help determine and establish the most appropriate hosting arrangements for the Certification Scheme, including whether the department should own and operate the Certification Scheme or whether it would be better hosted externally. The funding will also cover contractors to operate the Certification Scheme over the first three years while longer-term arrangements are determined and established. The funding will also enable the department to fund external organisations (likely via ad hoc grants) to develop a certification ‘stamp’ and any required certification standards.

#### *Biodiversity trading platform*

Funding of \$4.4 million over four years from 2021-22 will be provided to establish a biodiversity trading platform (the trading platform) to enable farmers to connect with buyers of biodiversity outcomes and kick-start private sector biodiversity markets.

A scoping study by Frontier Economics in 2020 recommended a staged development process for a trading platform with information, spatial and exchange functionality respectively. Funding will be provided to enable the development of this integrated spatial information, alongside buyer and seller information. This spatial registry will allow verification, monitoring and reporting of biodiversity services, building transparency and credibility in the market.

The trading platform is required as part of overall market mechanisms to enable trade in credible and verifiable biodiversity units, to meet existing and growing interest in environmental markets from voluntary, corporate and philanthropic investors. The expected outcome is that farmers will understand the biodiversity opportunities on their land, develop market relevant projects, and connect directly with private buyers (buyers in turn will be able to better understand the market for supply and connect with new suppliers that would otherwise have remained unknown).

The department will deliver the additional components through a suite of grant and procurement processes in accordance with the requirements of the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the *Commonwealth Grants Rules and Guidelines 2017* (CGRGs) and the *Commonwealth Procurement Rules* (CPRs).

The department anticipates the ERV Pilot will be delivered through an open competitive grant process, which may include modifications to ensure the ERV Pilot takes the form of a market purchasing scheme. Where grants are involved, grant opportunity guidelines will be developed, including eligibility and assessment criteria and will be published on the departmental website and GrantConnect at [www.grants.gov.au](http://www.grants.gov.au). Grants Hubs will be used to facilitate the process as appropriate.

An assessment panel will assess the applications against the assessment criteria and make recommendations to the responsible Minister, who is the final decision maker in relation to funding. Funding decisions will be made publicly available on the departmental website and GrantConnect.

The department anticipates the Certification Scheme will be delivered through a mixture of grants and procurements, including the use of experts, service providers and stakeholder engagement activities. Where grants are involved, the department will develop grant opportunity guidelines that will include eligibility and assessment criteria. They will be published on the departmental website and GrantConnect. The department anticipates that Grants Hubs will not be used because any grants relating to the Certification Scheme will be ad hoc grants.

Where procurements are involved, the department will develop information in accordance with the CPRs, with procurement details published on AusTender at [www.tenders.gov.au](http://www.tenders.gov.au).

The department will assess the applications against the assessment criteria and make recommendations to the responsible Minister as the final decision maker. Some decisions may be delegated to a senior official. Technical trials and consultation are expected to commence in 2021, while the Certification Scheme is expected to be implemented from 2022.

The department anticipates that the trading platform will be developed via a procurement process (open, from panels, or closed), expected to begin by July 2021. The service provider/s will work with the department to develop the trading platform in a staged approach. Some decisions regarding procurements may be delegated to a senior official by the Secretary of the department. Details of the procurements will be published on AusTender at [www.tenders.gov.au](http://www.tenders.gov.au).

Funding decisions made in connection with grants will not be subject to independent merits review because these decisions will relate to the allocation of finite resources between competing applicants and an allocation already made to a party would be affected by overturning the original decision. The Administrative Review Council (ARC) has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.11 to 4.19 of the guide, *What decisions should be subject to merit review?*).

In addition, the review and audit process undertaken by the Australian National Audit Office (ANAO) provides a mechanism to review Australian Government spending decisions and report any concerns to the Parliament. These requirements and mechanisms help to ensure the proper use of Commonwealth resources and appropriate transparency around decisions relating to making, varying or administering arrangements to spend relevant money.

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the *Judiciary Act 1903* may be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

Funding decisions made in connection with procurements will not be subject to independent merits review, as they are decisions relating to the allocation of a finite resource, from which all potential claims for a share of the resource cannot be met. In addition, any funding that has already been allocated would be affected if the original decision was overturned. The

ARC has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.11 to 4.19 of the guide, *What decisions should be subject to merit review?*).

The re-making of a procurement decision after entry into a contractual arrangement with a successful provider is legally complex, impractical, and could result in delays to providing services. The *Government Procurement (Judicial Review) Act 2018* enables suppliers to challenge some procurement processes for alleged breaches of certain procurement rules. This legislation might provide an additional avenue of redress (compensation or injunction) for dissatisfied providers or potential providers, depending on the circumstances.

The department has undertaken extensive consultation for all three components. The proposal for the ERV Pilot was based upon a design provided by the ANU in 2020-21. This design was in turn developed following consultation with key stakeholders including the Agriculture Stewardship Advisory Group (specialist advisory panel), as well as a cross-disciplinary team at the ANU. This advisory group was established to provide stakeholder input on the development, implementation and review of the Agriculture Stewardship Package components.

The Certification Scheme was similarly developed by the ANU and in consultation with the Agriculture Stewardship Advisory Group. It also builds upon a stakeholder consultation process conducted by the Australian Farm Institute (funded earlier under the Agriculture Stewardship Package). Further consultation is expected to take place in 2021 with a range of key stakeholders such as agricultural peak bodies, landholders, retailers and international trading partners. This consultation will help determine the best approach to rolling out the Certification Scheme from 2022.

Consultation for the trading platform consisted of a scoping study prepared by Frontier Economics in 2020. Consultation for stage two of the trading platform will consider whether the trading platform could provide a mechanism for identifying accredited offset purchasers and sellers and connections with different types of buyers including philanthropists and businesses.

In addition, in the course of implementing the Agriculture Stewardship Package the department has been consulting with a range of stakeholders, including state governments, industry organisations, not-for-profit environmental bodies, and regional organisations. Learnings from these consultations were also reflected in the initiatives.

Funding for the three new components of \$32.1 million was included in the 2021-22 Budget under the measure ‘Agriculture 2030’ for a period of four years commencing in 2021-22. Details are set out in *Budget 2021-22, Budget Measures, Budget Paper No. 2 2021-22* at page 53.

Funding will come from Program 3.2: Sustainable Management – Natural Resources, which is part of Outcome 3. Details are set out in the *Portfolio Budget Statements 2021-22, Budget Related Paper No. 1.1, Agriculture, Water and the Environment Portfolio* at pages 32 and 66.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the following powers of the Constitution:

- the communications power (section 51(v));

- the external affairs power (section 51(xxix));
- the express incidental power and the executive power (sections 51(xxxix) and 61), including the nationhood aspect; and
- the territories power (section 122).

### Communications power

Section 51(v) of the Constitution empowers the Parliament to make laws with respect to ‘postal, telegraphic, telephonic and other like services’.

The proposed expenditure to develop an online biodiversity trading platform would provide an online matching service for buyers and sellers of biodiversity, which integrates spatial information alongside buyer and seller information, and allows verification, monitoring and reporting of biodiversity services.

### External affairs power

Section 51(xxix) of the Constitution empowers the Parliament to make laws with respect to ‘external affairs’. The external affairs power supports legislation implementing Australia’s international obligations under treaties to which it is a party.

Australia has relevant obligations under the *Convention on Biological Diversity* (the Biodiversity Convention) in relation to the activities proposed to be funded by the project, including the obligations to:

- develop a national program for the conservation and sustainable use of biological diversity (Article 6(a));
- regulate or manage biological resources important for the conservation of biological diversity, with a view to ensuring their conservation and sustainable use (Article 8(c));
- promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings (Article 8(d));
- rehabilitate and restore degraded ecosystems and promote the recovery of threatened species (Article 8(f));
- prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species (Article 8(h));
- endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components (Article 8(i));
- adopt measures relating to the use of biological resources to avoid or minimise adverse impacts on biological diversity (Article 10(b));
- support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced (Article 10(d));
- adopt economically and socially sound measures that act as incentives for the conservation and sustainable use of components of biological diversity (Article 11); and
- promote and encourage research which contributes to the conservation and sustainable use of biological diversity (Article 12(b)).



The ERV Pilot proposes to fund activities which align with Australia's obligations under Articles 6, 8, 10, 11 and 12 of the Biodiversity Convention, including research which contributes to the conservation and sustainable use of biodiversity, promote the protection of ecosystems and natural habitats, and provide economic incentives to farmers for the conservation of remnant vegetation as components of biodiversity.

The Certification Scheme proposes to fund activities which align with Australia's obligations under Articles 8, 10 and 11 of the Biodiversity Convention, including to provide farmers with a 'biodiversity friendly' certification that showcases their effective management of biodiversity and ensure their positive actions are recognisable by supply chains, markets, investors, the community and other farmers.

The trading platform proposes to fund activities which align with Australia's obligations under Articles 8 and 11 of the Biodiversity Convention, including to promote the protection of ecosystems and natural habitats, and facilitate the provision of incentives for farmers to engage in the conservation and sustainable use of components of biological diversity on farms.

Australia also has relevant obligations under the *United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa* [2000] ATS 18, including under Articles 5 and 10.

Article 5 relevantly provides that affected country parties undertake to establish strategies and priorities, within the framework of sustainable development plans and/or policies, to combat desertification and mitigate the effects of drought (Article 5(b)). It also requires affected country parties to provide an enabling environment by strengthening, as appropriate, relevant existing legislation and, where they do not exist, enacting new laws and establishing long-term policies and action programs (Article 5(e)). Measures enabled by the Agriculture Stewardship Package will include activities aimed at the prevention and/or reduction of land degradation to combat desertification.

Article 10 provides for national action programs that 'identify factors contributing to desertification and practical measures necessary to combat desertification and mitigate the effects of droughts' (Article 10(1)). This relevantly includes measures in priority fields of 'sustainable management of natural resources; sustainable agricultural practices; [and] development and efficient use of various energy sources' (Article 10(4)). Measures enabled by the Agriculture Stewardship Package will include promoting the adoption of sustainable farming practices.

*Executive power and express incidental power, including the nationhood aspect*

The express incidental power in section 51(xxxix) of the Constitution empowers the Parliament to make laws with respect to matters incidental to the execution of any power vested in the Parliament, the executive or the courts by the Constitution. Section 61 of the Constitution supports activities that are peculiarly adapted to the government of a nation and cannot be carried out for the benefit of the nation otherwise than by the Commonwealth.

The new Agriculture Stewardship Package components will, for the benefit of the nation, take a national approach to the promotion and adaption of sustainable agricultural practices and improvement of biodiversity outcomes across Australia.

### *Territories power*

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

The new Agriculture Stewardship Package components may involve the Commonwealth providing funding for projects and to organisations in the Territories.

### **Item 2 – In the appropriate position in Part 4 of Schedule 1AB (table)**

This item adds three new table items to Part 4 of Schedule 1AB to establish legislative authority for government spending on certain activities administered by the department.

New **table item 487** establishes legislative authority for government spending on the Blue Carbon Ecosystems program (the program), which aims to support projects in regional Australia and foreign countries that relate to restoring coastal ecosystems and demonstrating environmental economic accounting, and support international events and partnerships relating to blue carbon and rainforests.

Environmental economic accounting is a framework for organising statistical information to help decision makers better understand how the economy and the environment interact. In April 2018, the Commonwealth and state and territory governments agreed to work together to develop a common national approach to environmental economic accounting in Australia. Further information on Australia’s approach to environmental economic accounting is available at [eea.environment.gov.au](http://eea.environment.gov.au).

Blue carbon is the carbon sequestered and stored in coastal and marine ecosystems. The objective of the program is to leverage Australia’s globally recognised strengths in measuring and managing nature by funding Australian organisations to deliver on-the-ground coastal ecosystem restoration projects (for example, in relation to mangroves, tidal marshes and seagrasses) in at least four selected sites in regional Australia. On-the-ground projects for at least four selected sites in developing countries overseas will also be funded under the program. This will create jobs, refine approaches to natural capital accounting and support existing Australian-led international partnerships in blue carbon and rainforests to share best practice, knowledge and experience in ocean accounting with foreign countries.

On 23 April 2021, the Prime Minister, the Hon Scott Morrison MP, the Minister for the Environment, the Hon Sussan Ley MP, and the Minister for Energy and Emissions Reduction, the Hon Angus Taylor MP, jointly announced the program. The joint announcement is available at [www.pm.gov.au/media/australia-announces-100-million-initiative-protect-our-oceans](http://www.pm.gov.au/media/australia-announces-100-million-initiative-protect-our-oceans).

Restoration projects yield an estimated investment return of over \$4,000 per hectare per annum, based on storm surge protection alone. Australia currently has over 33,000 hectares of restorable mangroves. The pilot projects supported by the program will provide verified examples of restoration and accounting methods that can be replicated at scale in the future, setting a strong foundation to stimulate private sector co-contributions. Improved environmental economic accounting will be essential to measure and value the restoration

impacts in the chosen regional coastal economies, including improvements to climate resilience and jobs growth.

Australian communities will experience positive jobs growth and productivity benefits through on-the-ground regional projects, as well as greater coastal resilience. It is estimated that delivery of on-the-ground regional projects will create 56 jobs, including indirect jobs. Contractors will be appointed to train local community members and Indigenous rangers to undertake restoration, folding into existing regional skills programs where appropriate.

By exporting Australia's expertise in natural capital via international partnerships, Australia can be positioned as a preferred provider of ocean and natural capital accounting assistance in the Asia-Pacific region, similar to Australia's reputation in relation to carbon measurement and reporting expertise. This will further demonstrate Australia's technical leadership on climate and oceans in the lead-up to the United Nations Framework on the Convention on Climate Change's 26<sup>th</sup> Conference of the Parties meeting in November 2021.

The program will also contribute to fulfilling Australia's commitments to develop a complete sequence of national ocean accounts under the High Level Panel for a Sustainable Ocean Economy (the Ocean Panel), a prime ministerial commitment. The Ocean Panel is comprised of 14 heads of state and government panel members (Australia, Canada, Chile, Fiji, Ghana, Indonesia, Jamaica, Japan, Kenya, Mexico, Namibia, Norway, Palau and Portugal) with a collective vision to protect and restore five critical areas in the ocean wealth, ocean health, ocean equity, ocean knowledge and ocean finance. Action in all areas is required to achieve a sustainable ocean economy and build critical foundations for economic recovery and resilience. The *Transformations for a Sustainable Ocean Economy: A Vision for Protection, Production and Prosperity* was launched on 2 December 2020.

The program will be comprised of two elements:

- Element 1 – on-the-ground coastal restoration projects in regional Australia and developing countries overseas; and
- Element 2 – ensuring Australian-led international partnerships are fit-for-purpose.

*Element 1 – on-the-ground coastal restoration projects in regional Australia and developing countries overseas*

Funding of \$29.1 million over four years from 2021-22 will be provided to fund at least four on-the-ground projects in regional Australia and at least four on-the-ground projects in foreign developing countries that aim to conserve and restore coastal ecosystems. These regions will receive social and economic benefits through nature-based solutions and employment opportunities that will be quantified through accounting frameworks. The department will pursue opportunities to work with the private sector given the charismatic appeal of blue carbon coastal ecosystem restoration in meeting corporate social responsibility goals.

During the first year of funding, on-the-ground coastal ecosystem restoration projects will be selected with the aid of feasibility assessments, site mapping, work health and safety advice and stakeholder input. The projects will be targeted at:

- priority ocean policy and management matters for Australia (for example, Australian marine parks, Indigenous Protected Areas in sea country, protection of threatened

species, reducing bycatch and managing invasive species) and the Ocean Panel (for example, climate risk and coastal ecosystem restoration);

- emerging and recovering marine-based industries such as marine tourism, aquaculture, and industries prioritised by the Blue Economy Cooperative Research Centre (CRC). The Blue Economy CRC brings together national and international expertise in aquaculture, marine renewable energy and marine engineering, as part of a single, collaborative project. Through integration of the knowledge and expertise across these sectors, this CRC paves the way for innovative, commercially viable and sustainable offshore developments that will see significant changes in marine renewable energy output and seafood production. The Blue Economy CRC is established and supported by the Government's CRC Program;
- opportunities that make use of existing ongoing data collation efforts, and demonstration of specific use case types and/or to advance specific methodological matters; and
- a mix of socio-economic and biophysical contexts, to illustrate the benefits of a variety of nature based solutions to a cross-section of regional Australians.

A suitable on-the-ground project may involve, for example, identifying and accounting for degraded mangroves, undertaking on-the-ground restoration or remediation activities, and accounting for the ecosystem services provided by the mangroves, including the multiple economic and social benefits. Preferred demonstration sites may include a priority degraded ecosystem, viable restoration solutions and technologies, a mix of restoration benefits that may flow to local communities and marine industries, good data availability and adequate site access. Opportunities to leverage existing projects, such as via extension or private sector co-investment will also be considered, as well as opportunities to involve Indigenous Australians such as rangers and communities.

Where demonstration sites are data poor, specific data collection activities may be needed to produce accounts. Specific accounting methods may also be developed where existing methods are not fit-for-purpose. The social, economic and environmental impact data that is gathered through on-the-ground projects will support the development of tools for decision makers that enable improved estimates of benefits attributable to coastal restoration projects.

The environmental economic accounting service industry, made up of private, academic and not-for-profit sectors, will be supported under the program through the preparation of guidance materials and the establishment of a community of practice.

### *Element 2 – ensuring Australian-led international partnerships are fit-for-purpose*

Funding of \$1.5 million will be provided over four years from 2021-22 to ensure that existing Australian-led international partnerships are well positioned to maximise the impact of sharing experiences gained from the proposed restoration projects with other countries in the region and globally. This will include approaches to operationalise private sector investment.

The International Partnership for Blue Carbon (IPBC) and the Asia-Pacific Rainforest Partnership (APRP) are successful platforms, with broad international support, which the Government has led for five years. The IPBC provides an open forum for government agencies, non-government organisations and research institutions to connect, share and collaborate to build solutions, take actions, and benefit from the experience and expertise of the global community. Partners work with a joint vision to protect, sustainably manage and

restore global coastal blue carbon ecosystems (mangroves, tidal marshes and seagrasses) contributing to climate change mitigation, adaptation, biodiversity, ocean economies and livelihoods of coastal communities.

Under the APRP, the Government convenes the Asia-Pacific Rainforest Summit (the summit). The summit builds connections between governments, the private sector and civil society to promote greater action to reduce emissions from deforestation and forest degradation in the Asia-Pacific region. Australia hosted the inaugural summit in Sydney in November 2014 and worked closely with Brunei Darussalam in 2016 and Indonesia in 2018 to support their hosting of subsequent events. The most recent summit, held in Jogjakarta in April 2018, attracted over 1,000 delegates including regional ministers, government officials, civil society and the private sector.

Funding of \$4.2 million for these partnerships until 2023-24 was provided in the 2020-21 Budget. This aligns with funding of on-the-ground coastal restoration projects in Element 1 of the program. Doing so enables meaningful results from the restoration projects and ocean accounting, which take time to generate, to be captured and shared internationally via the partnerships within the four-year funding period of the program. Specific activities funded would include a further biennial Asia-Pacific Rainforest Summit in 2024 and an extension of activities of the IBPC to June 2025.

The department will deliver the program through a suite of procurement processes in accordance with the requirements of the Commonwealth resource management framework, including the PGPA Act and the CPRs.

On-the-ground restoration and accounting projects within Element 1 will be funded through leveraging existing mechanisms (for example, standing offers with Commonwealth and state partnerships, regional organisations, and standing offers with environmental research organisations), and limited and/or open tender procurement processes as appropriate.

Activities supporting the IPBC and the APRP within Element 2 will be managed through additional limited tender or open tender procurements as necessary.

Information relating to the procurement activities for Elements 1 and 2, including request for tender documents, eligibility and assessment criteria, will be published on AusTender as required at [www.tenders.gov.au](http://www.tenders.gov.au).

Expenditure decisions for both Elements will be made by the Secretary of the department, or a delegate of the Secretary, taking into account the recommendations of an assessment by departmental officials against the program eligibility and assessment criteria.

Procurement decisions made in connection with the program are not considered suitable for independent merits review, as they are decisions relating to the allocation of a finite resource, from which all potential claims for a share of the resource cannot be met. Funding that has already been allocated would be affected if the original decision was overturned. The ARC has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.11 to 4.19 of the guide, *What decisions should be subject to merit review?*).

In addition, the review and audit process undertaken by the ANAO provides a mechanism to review Australian Government spending decisions and report any concerns to the Parliament. These requirements and mechanisms help to ensure the proper use of Commonwealth resources and appropriate transparency around decisions relating to making, varying or administering arrangements to spend relevant money.

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the *Judiciary Act 1903* may be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The department has undertaken consultation with government entities, including the Department of Foreign Affairs and Trade, the Department of Home Affairs and the National Indigenous Australians Agency as part of the initial design and scoping of the program.

The department anticipates to further consult with state governments, local community and/or industry bodies as part of on-the-ground project site selection process during the first year of funding.

Funding of \$30.6 million was included in the 2021-22 Budget under the measure ‘Oceans Leadership Package’ for a period of four years commencing in 2021-22. Details are set out in *Budget 2021-22, Budget Measures, Budget Paper No. 2 2021-22* at page 59.

Funding for this item will come from Program 1.1: Sustainable Management of Natural Resources and the Environment, which is part of Outcome 1. Details are set out in the *Portfolio Budget Statements 2021-22, Budget Related Paper No. 1.1, Agriculture, Water and the Environment Portfolio* at page 53.

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

### External affairs

Section 51(xxix) of the Constitution empowers the Parliament to make laws with respect to ‘external affairs.’ The external affairs power supports legislation implementing Australia’s international obligations under treaties to which it is a party.

Australia has obligations under the *Convention on Biological Diversity* (Biodiversity Convention) to:

- develop national strategies, plans or programs for the conservation and sustainable use of biological diversity (Article 6(a));
- promote the protection of ecosystems, natural habitats and the maintenance of viable population of species in natural surroundings (Article 8(d)); and
- rehabilitate and restore degraded ecosystems and promote the recovery of threatened species (Article 8(f)).

The program will include expenditure for activities that are directed at the restoration of coastal ecosystems.

Australia has obligations under the *Kyoto Protocol to the United Nations Framework Convention on Climate Change* [2008] ATS 2 (Kyoto Protocol), the Paris Agreement [2016] ATS 24 and the *United Nations Framework Convention on Climate Change* (UNFCCC).

#### *Kyoto Protocol*

Article 10 of the Kyoto Protocol obliges contracting parties to:

- ...
- (c) Cooperate in the promotion of effective modalities for the development, application and diffusion of, and take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies, know-how, practices and processes pertinent to climate change, in particular to developing countries, including the formulation of policies and programmes for the effective transfer of environmentally sound technologies that are publicly owned or in the public domain and the creation of an enabling environment for the private sector, to promote and enhance the transfer of, and access to, environmentally sound technologies.

#### *Paris Agreement*

Article 10.2 of the Paris Agreement obliges contracting parties to ‘strengthen cooperative action on technology development and transfer’.

#### *UNFCCC*

Article 4.1 of the UNFCCC obliges contracting parties to:

- ...
- (c) Promote and cooperate in the development, application and diffusion, including transfer, of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol in all relevant sectors, including the energy, transport, industry, agriculture, forestry and waste management sectors;
- (d) Promote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems;
- ...
- (h) Promote and cooperate in the full, open and prompt exchange of relevant scientific, technological, technical, social-economic and legal information related to the climate system and climate change, and to the economic and social consequences of various response strategies.

Element 2 and the accounting components of Element 1 of the program will seek to demonstrate proven carbon accounting methods and frameworks. The accounting component of Element 1 of the program will also promote the cooperation between contracting parties to the above international agreements of technologies, practices, and processes. The demonstration component of the program may include projects for carbon abatement in sinks and reservoirs of greenhouse gases.

The external affairs power also supports legislation with respect to matters concerning Australia's relations with other nations. The accounting component of Element 1 is directed at assisting other countries with their obligations identified above under the Kyoto Protocol, the Paris Agreement and the UNFCCC, and on-the-ground projects in developing countries overseas will assist these countries with conserving and restoring their coastal ecosystems. Funding under Element 2 supports activities relating to international engagement on carbon accounting.

The external affairs power also supports legislation with respect to matters or things outside the geographical limits of Australia. Element 2 of the program will in part be directed towards events or activities that occur outside of Australia.

New **table item 488** establishes legislative authority for government spending on a one-off, ad hoc grant to modify, expand, implement and raise awareness of the Australian Farm Data Code (the Code), which will support the delivery of the *Digital Foundations for Agriculture Strategy* (the Strategy).

On 1 September 2020, the Minister for Agriculture, Drought and Emergency Management, the Hon David Littleproud MP, announced the development of the Strategy, which will set the foundations for widespread uptake of digital technologies across agriculture, forestry and fisheries industries. The media release is available at [minister.awe.gov.au/littleproud/media-releases/%2486m-adoption-innovation-hubs](https://minister.awe.gov.au/littleproud/media-releases/%2486m-adoption-innovation-hubs).

One of the initial measures that is intended to support the goals of the Strategy is a \$0.5 million grant to expand the Code. The expanded Code will support increased producer and service provider awareness of how farm data can be stored, managed and shared and instil greater confidence by end users to adopt digital technologies. Lack of trust by end users in how data is collected, used and shared is a known barrier to the adoption of digital technologies.

For farmers, the initial Code provides greater awareness and understanding of the ways in which service providers use farmers' farm data, a framework to compare providers' policies, and gradual improvements to industry data practices. For service providers, the initial Code provides clear and industry agreed guidance on data policies and a framework to inform discussions with farmers about data. In this way, the initial Code aims to ensure best-practice farm data management.

A one-off, ad hoc grant will be provided to co-fund an expansion of the Code to increase confidence for end users to adopt digital technologies. This investment will co-fund the development of an automated certification platform for service providers to demonstrate compliance with the Code and bring the Code in line with the Department of the Treasury's Consumer Data Right ([www.cdr.gov.au](http://www.cdr.gov.au)), which gives Australians the right to share their data between providers. The expansion of the Code will commence in 2021-22 and be fully complete by 30 June 2024. The main users of the Code will continue to be farmers and service providers.

The department will deliver the extended Code as a one-off, ad hoc grant process in accordance with the requirements of the Commonwealth resource management framework, including the PGPA Act and the CGRGs.



The department will invite the initial developer to submit an application for the grant. They will also be required to provide a co-contribution to expand the Code which they own and have developed. This will include partnering with other parties as needed to complete the terms and conditions of the grant. The grant will be administered through one of the Grants Hubs on behalf of the department. Grant opportunity guidelines will be developed and published, if required. Once awarded, the grant will be published on the GrantConnect website ([www.grants.gov.au](http://www.grants.gov.au)).

An assessment panel will not be required, as there is anticipated to be only one applicant, and the responsible Minister will be the final decision maker for the grant.

Merits review of decisions made in connection with the grant is not considered appropriate because these decisions relate to the provision of a one-off grant to a certain service provider, over other service providers. The ARC has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.16 to 4.19 of the guide, *What decisions should be subject to merit review?*).

The initial developer was determined to be an appropriate organisation to pursue a one-off, ad hoc grant. They would be able to partner with others to comply with the terms and conditions of the grant. In addition, the review and audit process undertaken by the ANAO provides a mechanism to review Australian Government spending decisions and report any concerns to the Parliament. These requirements and mechanisms help to ensure the proper use of Commonwealth resources and appropriate transparency around decisions relating to making, varying or administering arrangements to spend relevant money.

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the *Judiciary Act 1903* may be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

As part of the development of the Strategy, the department conducted two rounds of consultations in December 2020 and February 2021 with over 200 stakeholders. These stakeholders included farming systems groups, producers, the Department of the Prime Minister and Cabinet, the Department of Industry, Science, Energy and Resources, and the National Farmers Federation.

Funding for the Code of \$0.5 million was included in the 2021-22 Budget under the measure 'Agriculture 2030' for a period of three years commencing in 2021-22. Details are set out in *Budget 2021-22, Budget Measures, Budget Paper No. 2 2021-22* at page 55.

Funding for this item will come from Program 3.10: Agricultural Resources, which is part of Outcome 3. Details are set out in the *Budget 2021-22, Portfolio Budget Statements 2021-22, Budget Related Paper No. 1.1, Agriculture, Water and the Environment Portfolio* at pages 31 and 71.

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

### Communications power

Section 51(v) of the Constitution empowers the Commonwealth to make laws with respect to ‘postal, telegraphic, telephonic, and other like services’.

The Code would support expenditure for activities that are related to access and use of a communication service (the internet), in collecting and distributing data governed by the Code through an online platform.

New **table item 489** establishes legislative authority for government spending on the AgCAREERSTART pilot program, the AgUP grants program and the Modern Workforce Management and Planning Practices Project, which aim to assist in shifting perceptions of agriculture, improve the reputation of the agricultural sector as an employer, and build workforce management and planning skills.

The Commonwealth expenditure responds to recommendations of the *National Agricultural Workforce Strategy* (the Strategy) put forward by the independent National Agricultural Labour Advisory Committee. The Strategy aims to ensure farmers have access to a fit-for-purpose workforce into the future and recommends steps for improving the attraction, retention and skills development of the agriculture workforce. The Strategy was released in March 2021 and is available at [www.agriculture.gov.au/ag-farm-food/agricultural-workforce/naws](http://www.agriculture.gov.au/ag-farm-food/agricultural-workforce/naws).

The Commonwealth expenditure also aligns with and supports the themes outlined in the *Australian Government roadmap to attract, retain, upskill and modernise the agricultural workforce* (the roadmap), which lays the framework for responding to the Strategy. The roadmap was released in March 2021 and is available at [www.agriculture.gov.au/sites/default/files/documents/naws-roadmap.pdf](http://www.agriculture.gov.au/sites/default/files/documents/naws-roadmap.pdf).

### *AgCAREERSTART pilot program*

Seed funding of \$5.1 million over two years from 2021-22 will be provided to an industry-led consortium to develop and pilot a program that provides school leavers the opportunity to work in agriculture by undertaking a structured and supported gap year placement at a farm and relevant training. The AgCAREERSTART pilot program will be implemented through a one-off, ad hoc grant.

The AgCAREERSTART pilot aims to build exposure to, and interest in, career opportunities in modern agriculture amongst school leavers. Many young Australians are unaware of modern advances in agricultural technologies and practices (such as automation, the internet of things and robotics) and have a limited understanding of what a career in agriculture could offer them. This limits industry’s ability to attract new workers to the sector.

The beneficiaries of the program are school leavers/young people who will be provided the opportunity through the pilot program to experience work in agriculture to gain a better knowledge and understanding of modern agriculture and the occupations and future opportunities agriculture offers. Participants will gain insights into work on farms and be provided with knowledge and training in skills important for work on an operational farm.

### *AgUP grants program*

Funding of \$7.3 million over four years from 2021-22 will be provided through the AgUP grants program for industry-led initiatives that provide opportunities for upskilling and career progression in the agriculture industry. The AgUP grants program will be a competitive and merit based grants program.

A lack of workers and workers with the right skills puts agricultural production at risk now and into the future. The objective of the AgUP grants program is to support industry-led initiatives which develop career progression pathways and upskill, train and mentor workers. In the medium to long term, this will assist agricultural businesses to attract, retain and upskill workers and build a sustainable workforce.

The first funding round for the AgUP grants program is expected in late 2021. The program will support industry to develop and adopt new ways of developing and recognising employee skills. For example, a small project funded under the program might develop career pathway materials to help employees understand how to progress in their sectors, while a substantive project might aim to develop an online learning and skills recognition platform for agricultural workers to access learning modules and record their skills proficiencies, improving their value and mobility across the sector.

### *Modern Workforce Management and Planning Practices Project*

Funding of just under \$1.0 million over two years from 2021-22 will be provided to support the development of educational materials for agricultural employers on workforce management and planning practices. These materials will help agricultural employers adjust to disruptions and challenges in the labour market and improve the industry's image and reputation. The funding will be made available to a provider, who is anticipated to be engaged through a procurement process to develop and manage all aspects of the project.

Workplace conditions play a significant role in determining how attractive a job is to jobseekers, with negative community perceptions and poor industry image an impediment to people considering working in agriculture. The objective of the project is to support agricultural employers and businesses in the adoption of modern workforce management and planning practices which will, in the long term, help to reposition the sector as an employer of choice for new entrants and assist in securing skilled workers in a highly competitive labour market. Agricultural employers and businesses will benefit from the project as they will have access to additional information, tools and resources and a greater understanding and knowledge of workplace planning and management, and ethical and lawful workplace practices.

The department will deliver the three initiatives through a suite of grants and procurement processes in accordance with the requirements of the Commonwealth resource management framework, including the PGPA Act, the CGRGs and the CPRs.

It is anticipated the AgCAREERSTART pilot program will be delivered through a one-off, ad hoc grant and the AgUP grants program through an open competitive and merit based grants process. Grant funding will be administered through the Department of Social Services' Community Grants Hub.

Grant opportunity guidelines, including eligibility criteria, will be developed for each program and published on the GrantConnect website ([www.grants.gov.au](http://www.grants.gov.au)) as required by the CGRGs. Information about the programs, including grants awarded, will be available through the Community Grants Hub, as well as the departmental website. It is anticipated that an assessment panel will be formed to assess the grant applications and the panel will make recommendations on the proposals. The responsible Minister will be the final decision maker in relation to the successful grantees and the grant expenditure.

The Modern Workforce Management and Planning Practices Project is anticipated to be delivered through either a limited and/or open tender procurement process as appropriate, in accordance with the CPRs and the department's Accountable Authority Instructions. It is anticipated an assessment panel will be formed to assess the proposals for value for money. The panel will make recommendations to the First Assistant Secretary, Agricultural Policy Division in the department, regarding the project proposals. The First Assistant Secretary, who is a delegate of the Secretary of the department, will be responsible for final decisions in relation to the successful tender and the project expenditure. The successful tender will be reported on AusTender ([www.tenders.gov.au](http://www.tenders.gov.au)), and it is anticipated that information about the project will be made available on the departmental website.

Funding decisions made in connection with the grants are not considered suitable for independent merits review as these decisions will relate to the allocation of finite resources between competing applicants and an allocation already made to a party would be affected by overturning the original decision. The ARC has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.11 to 4.19 of the guide, *What decisions should be subject to merit review?*).

In addition, the review and audit process undertaken by the ANAO provides a mechanism to review Australian Government spending decisions and report any concerns to the Parliament. These requirements and mechanisms help to ensure the proper use of Commonwealth resources and appropriate transparency around decisions relating to making, varying or administering arrangements to spend relevant money.

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the *Judiciary Act 1903* may be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

Funding decisions made in connection with the procurements are not considered suitable for independent merits review, as they are decisions relating to the allocation of a finite resource, from which all potential claims for a share of the resource cannot be met. Funding that has already been allocated would be affected if the original decision was overturned. The ARC has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.11 to 4.19 of the guide, *What decisions should be subject to merit review?*).

The re-making of a procurement decision after entry into a contractual arrangement with a successful provider is legally complex, impractical, and could result in delays to providing services under the project. The *Government Procurement (Judicial Review) Act 2018* enables suppliers to challenge some procurement processes for alleged breaches of certain procurement rules. This legislation might provide an additional avenue of redress

(compensation or injunction) for dissatisfied providers or potential providers, depending on the circumstances.

Through the development of the Strategy, the National Agricultural Labour Advisory Committee consulted extensively with stakeholders across the agricultural sector and associated supply chains, meeting with over 300 stakeholders and receiving over 100 submissions in the process. The department undertook targeted consultation with state and territory governments, industry and other stakeholders on the Strategy and the roadmap. Stakeholders were generally supportive of the findings and recommendations of the Strategy.

The department will undertake specific consultation on the design and implementation of the three initiatives with relevant stakeholders.

Funding for the three initiatives of \$16.4 million was included in the 2021-22 Budget under the measure ‘Agriculture 2030’ for a period of four years commencing in 2021-22. Details are set out in *Budget 2021-22, Budget Measures, Budget Paper No. 2 2021-22* at pages 54 to 55.

Funding for this item will come from Program 3.10: Agricultural Resources, which is part of Outcome 3. Details are set out in the *Portfolio Budget Statements 2021-22, Budget Related Paper No. 1.1, Agriculture, Water and the Environment Portfolio* at pages 30 and 71.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the following powers of the Constitution:

- the communications power (section 51(v)); and
- the external affairs power (section 51(xxix)).

#### Communications power

Section 51(v) of the Constitution empowers the Parliament to make laws with respect to ‘postal, telegraphic, telephonic and other like services’.

The Workforce Management and Planning Practices Project to develop online content would support the development of content for a website or mobile application and delivery of that content via the website or mobile telephone networks.

#### External affairs

Section 51 (xxix) of the Constitution empowers the Parliament to make laws with respect to ‘external affairs’. The external affairs power supports legislation implementing Australia’s international obligations under treaties to which it is a party.

Australia has obligations under the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), including:

- Article 2(1) of the ICESCR provides that each State Party undertakes to take steps to progressively realise the rights recognised in the Covenant ‘by all appropriate means, including particularly the adoption of legislative measures’; and
- Article 6 of the ICESCR provides that the States Parties recognise the right to work and will take appropriate steps to achieve the realisation of this right including

through ‘technical and vocational guidance and training programmes, policies and techniques’.

Australia also has obligations under the International Labour Organization’s *Convention concerning Employment Policy* (ILO Convention 122) and the *Convention concerning Vocational Guidance and Vocational Training in the Development of Human Resources* (ILO Convention 142). In particular:

- Article 1 of the ILO Convention 122 requires Members to pursue ‘an active policy designed to promote full, productive and freely chosen employment’. Article 2 of the ILO Convention 122 requires Members to ‘decide on and keep under review... measures to be adopted for attaining the objectives specified in Article 1’;
- Article 1 of the ILO Convention 142 requires Members to adopt policies and programs of vocational guidance and training, linked with employment;
- Article 2 of the ILO Convention 142 requires Members to establish and develop open, flexible and complementary systems of general, technical and vocational education, educational and vocational guidance, and vocational training, whether these activities take place within the system of formal education or outside it;
- Article 3 of the ILO Convention 142 requires that Members gradually extend their systems of vocational guidance, including continuing employment information, with a view to ensuring that comprehensive information and the broadest possible guidance are available to all children, young persons and adults (Article 3(1)), and with such information and guidance covering things including the choice of an occupation, vocational training and related employment opportunities, the employment situation and employment prospects (Article 3(2)); and
- Article 4 of the ILO Convention 142 requires that Members gradually extend, adapt and harmonise their vocational training systems to meet the needs for vocational training throughout life of both young persons and adults in all sectors of the economy and branches of economic activity and at all levels of skill and responsibility.

The AgCAREERSTART pilot program and the AgUP grants program contribute to the fulfilment of obligations under the ILO Convention 122 (Articles 1 and 2), the ILO Convention 142 (Articles 1 to 4) and the ICESCR (Articles 2 and 6).

The AgCAREERSTART pilot program will allow school leavers to experience a career path they may be well suited for but otherwise deterred from due to misconceptions, providing them with vocational guidance, employment experience, practical training and mentoring.

The AgUP grants program will build employment skills, establish and enhance career development pathways, aimed at ensuring the fullest possible opportunity for people to use their skills and endowments in a job in the agriculture industry. The program will provide vocational guidance and training aimed at achieving steady economic, social and cultural development and full and productive employment by ensuring a strong and sustainable agricultural sector.

## **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 (Agriculture, Water and the Environment Measures No. 3) Regulations 2021***

This disallowable 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**

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 powers in the FF(SP) Act to make, vary or administer arrangements or grants may be exercised on behalf of the Commonwealth by 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 *Financial Framework (Supplementary Powers) Amendment (Agriculture, Water and the Environment Measures No. 3) Regulations 2021* amend Schedule 1AB to the FF(SP) Regulations to establish legislative authority for government spending on certain activities administered by the Department of Agriculture, Water and the Environment.

This legislative instrument:

- amends table item 368 in Part 4 of Schedule 1AB for the Agriculture Stewardship Package;
- adds table item 487 in Part 4 of Schedule 1AB for the Blue Carbon Ecosystems;
- adds table item 488 in Part 4 of Schedule 1AB for the Australian Farm Data Code; and
- adds table item 489 in Part 4 of Schedule 1AB for the AgCAREERSTART, AgUP and Modern Workforce Management and Planning Practices Project.

#### **Table item 368 – Agriculture Stewardship Package**

This item amends table item 368 in Part 4 of Schedule 1AB by omitting all the words after “farming practices.”, and substituting the full text for the additional operation provision. The amended table item 368 establishes legislative authority for government spending on additional activities under the Agriculture Stewardship Package, which helps farmers improve on-farm land management practices. The Agriculture Stewardship Package seeks to improve biodiversity by creating a system that would reward farmers for protecting biodiversity.

The additional components aim to test the concept of buying and selling biodiversity improvement services from farmers, and how the Commonwealth can leverage growing interest in biodiversity outcomes from private investors. Over time, the aim is to create a

credible market mechanism that improves biodiversity and creates new income opportunities for farmers.

Key deliverables include:

- trialling the Enhancing Remnant Vegetation Pilot, which seeks to encourage farmers to participate in a trial to improve the protection and management of existing high value native vegetation on their properties;
- implementing the Australian Farm Biodiversity Certification Scheme, which aims to deliver a premium price and keep up with growing market demand for improved environmental credentials for Australian food and fibre; and
- developing a biodiversity trading platform to link buyers and sellers of biodiversity services to enable farmers to connect with buyers of biodiversity outcomes and kick-start private sector biodiversity markets.

### **Human rights implications**

The amended table item 368 does not engage any of the applicable rights or freedoms.

### **Conclusion**

The amended table item 368 is compatible with human rights as it does not raise any human rights issues.

### *Table item 487 – Blue Carbon Ecosystems*

Table item 487 establishes legislative authority for government spending on the Blue Carbon Ecosystems program (the program), which aims to support projects in regional Australia and foreign countries that relate to restoring coastal ecosystems and demonstrating environmental economic accounting, and support international events and partnerships relating to blue carbon and rainforests.

The objective of the program is to leverage Australia’s globally recognised strengths in measuring and managing nature by funding Australian organisations to deliver on-the-ground coastal ecosystem restoration projects (for example, in relation to mangroves, tidal marshes and seagrasses) in at least four selected sites in regional Australia, and at least four selected sites in developing countries overseas. This will create jobs, refine approaches to natural capital accounting and support existing Australian-led international partnerships in blue carbon and rainforests to share best practice, knowledge and experience in ocean accounting with foreign countries.

The program will be comprised of two elements:

- Element 1 – on-the-ground coastal restoration projects in regional Australia and developing countries overseas; and
- Element 2 – ensuring Australian-led international partnerships are fit-for-purpose.

### **Human rights implications**

Table item 487 does not engage any of the applicable rights or freedoms.



## Conclusion

Table item 487 is compatible with human rights as it does not raise any human rights issues.

### Table item 488 – Australian Farm Data Code

New table item 488 establishes legislative authority for government spending to modify, expand, implement and raise awareness of the Australian Farm Data Code (the Code), which will support the delivery of the *Digital Foundations for Agriculture Strategy* (the Strategy).

The Strategy will set the foundations for widespread uptake of digital technologies across the agriculture, fisheries and forestry industries. One of the initial measures that will support the goals of the Strategy is a \$0.5 million one-off, ad hoc grant to expand the Code, which aims to raise producer and service provider awareness of how farm data can be stored, managed and shared. This contributes to the overall aims of providing end users of the Code with greater confidence to adopt digital technologies.

For farmers, the initial Code provides greater awareness and understanding of the ways in which service providers use farmers' farm data, a framework to compare providers' policies, and gradual improvements to industry data practices. For service providers, the initial Code provides clear and industry agreed guidance on data policies and a framework to inform discussions with farmers about data. In this way, the initial Code aims to ensure best-practice farm data management. The expansion of the initial Code will commence in 2021-22 and be fully complete by 30 June 2024. The main users of the Code will continue to be farmers and service providers.

## Human rights implications

Table item 488 does not engage any of the applicable rights or freedoms.

## Conclusion

Table item 488 is compatible with human rights as it does not raise any human rights issues.

### Table item 489 – AgCAREERSTART, AgUP and Modern Workforce Management and Planning Practices Project

New table item 489 establishes legislative authority for government spending on the AgCAREERSTART pilot program, the AgUP grants program and the Modern Workforce Management and Planning Practices Project, which aim to assist in shifting perceptions of agriculture, improve the reputation of the agricultural sector as an employer, and build workforce management and planning skills.

#### *AgCAREERSTART pilot program*

Seed funding of \$5.1 million for a period of two years from 2021-22 will be provided to an industry-led consortium to develop and pilot a structured employment program to provide school leavers with the opportunity to work in agriculture by undertaking a placement at a farm and relevant training. The AgCAREERSTART pilot program will be implemented through a one-off, ad hoc grant.

### *AgUP grants program*

Funding of \$7.3 million over four years from 2021-22 will be provided through the AgUP program to industry-led initiatives that provide opportunities for upskilling and career progression in the agriculture industry. The AgUP grants program will be a competitive and merit based grants program.

### *Modern Workforce Management and Planning Practices Project*

Funding of almost \$1.0 million over two years from 2021-22 will be provided to support agricultural employers to implement best-practice modern workforce management and planning practices to assist agricultural businesses to adjust to disruptions and challenges in the labour market and support improvement of the industry's image and reputation. The funding will be made available to a provider, who is anticipated to be engaged through a procurement process to develop and manage all aspects of the project.

### **Human rights implications**

Table item 489 engages the following right:

- the right to work – Article 6 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), read with Article 2.

Article 2 of the ICESCR requires the States Parties to take steps to progressively achieve the full realisation of the rights recognised in the Covenant by all appropriate means.

Article 6 of the ICESCR recognises the right to work, including the right of everyone to the opportunity to gain living by work which they freely choose or accept. Steps to be taken to achieve the full realisation of this right include providing technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment.

The AgCAREERSTART pilot program supports the right of school leavers and young people to access careers in agriculture by providing insights into work on farms and providing knowledge and training in skills important for work on an operational farm.

The AgUP grants program supports the right of agricultural workers to receive upskilling, training and mentorship aimed at establishing and enhancing career progression pathways.

### **Conclusion**

Table item 489 is compatible with human rights because it promotes the protection of human rights.

**Senator the Hon Simon Birmingham  
Minister for Finance**