

EXPLANATORY STATEMENT

Issued by authority of the Minister for Energy and Emissions Reduction

Australian Renewable Energy Agency Act 2011

*Australian Renewable Energy Agency (General Funding Strategy) Determination
2021*

Section 19 of the *Australian Renewable Energy Agency Act 2011* (the Act) provides that the Board of the Australian Renewable Energy Agency (ARENA) must, for each financial year, develop a General Funding Strategy (GFS) to govern the provision of financial assistance by ARENA under the Act. A GFS must relate to the financial year for which the strategy is developed and the next two financial years, and must state ARENA's principal objectives and priorities for the provision of financial assistance during this time period. Each GFS must be developed during the financial year previous to that in which it commences.

Section 20 provides that, as soon as practicable after developing a GFS for a financial year, the Board must present a copy to the Minister for approval. Following this, the GFS becomes a non-disallowable legislative instrument made on the date of Ministerial approval.

The *Australian Renewable Energy Agency (General Funding Strategy) Determination 2021* (the Determination) enacts ARENA's GFS for the 2021/22 – 2023/24 financial years as a legislative instrument, as per the above.

The GFS for the 2021/22 – 2023/24 financial years has been updated from the 2019/20 – 2021/22 financial years to reflect current Government priorities. ARENA's main objectives to improve the competitiveness of renewable energy technologies and increase the supply of renewable energy in Australia remain a primary focus of the GFS. However, the GFS investment priorities have also been updated to acknowledge ARENA's functions have been expanded through the *Australian Renewable Energy Agency (Implementing the Technology Investment Roadmap) Regulations 2021* (the Regulations) to enable ARENA to provide financial assistance in relation to priority low emissions technologies, with a focus on the five priority low emissions technologies and the corresponding stretch goals identified in the Government's first Low Emissions Technology Statement (LETS)¹. The Regulations also prescribe a function of providing financial assistance in relation to five targeted programs announced in the 2020-21 Budget.

Under subsection 20(2) of the Act this instrument is not subject to disallowance. This reflects both the independence of ARENA in developing the GFS and the similarities of the GFS to government directions to statutory bodies which are also not subject to disallowance. As the provision of assistance by ARENA must be in accordance with

¹ The LETS refers to the Government policy of the same name, under the Technology Investment Roadmap, which identified five priority low emissions technologies the first annual release, with further new and emerging technologies to be identified for future investment. See further <https://www.industry.gov.au/data-and-publications/technology-investment-roadmap-first-low-emissions-technology-statement-2020>.

the GFS under s 10 of the Act, disallowance of some or all of the strategy could impede the ability for ARENA to independently perform its statutory functions.

Details of the Determination are outlined in **Attachment A**.

There are no statutory pre-conditions that need to be satisfied before the power to make the Determination may be exercised.

ATTACHMENT A

Details of the *Australian Renewable Energy Agency (General Funding Strategy) Determination 2020*

Section 1 – Name of Determination

Section 1 provides that the title of the Determination is the *Australian Renewable Energy Agency (General Funding Strategy) Determination 2021*.

Section 2 – Commencement

Section 2 provides that the Determination commences from the time it was made by the Minister. This follows the requirements of sub-section 21(1) of the Act.

Section 3 – Authority

Section 3 provides that the Determination is made under the *Australian Renewable Energy Agency Act 2011*.

Section 4 – Definitions

Section 4 provides that the term “Act” in the instrument refers to the *Australian Renewable Energy Agency Act 2011*.

Section 5 – Repeals

Section 5 provides that the Determination, on the day that it comes into force, repeals the previous GFS (the *Australian Renewable Energy Agency (General Funding Strategy) Determination 2019*). The power to do this derives from sub-section 33(3) of the *Acts Interpretation Act 1901*² read in conjunction with sub-section 21(2) of the Act.

Section 6 – Approval of General Funding Strategy

Section 6 provides that, by signing the Determination, the Minister thereby approves and makes the GFS for the 2021/22 – 2023/24 financial years (at Schedule 1 of the Determination) as a non-disallowable legislative instrument as at the date of signature. The power to do this derives from sub-section 20(2) of the Act.

It should be noted that sub-section 19(2) of the Act requires a GFS to be developed during the financial year previous to that in which it commences. The GFS for the 2021/22 – 2023/24 financial years was developed by the Board in the 2020/21 financial year, as required by sub-section 19(2).

² Under sub-section 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 GFS for the 2021/22 – 2023/24 financial years should be read in conjunction with the latest ARENA Investment Plan³. While the Investment Plan does not form part of the Determination (and is therefore not formally part of the 2021/22 – 2023/24 GFS), it does outline non-binding principles the Board will consider when assessing funding applications.

Schedule 1—General Funding Strategy 2021/22 – 2023/24

Schedule 1 provides the detail of the general funding strategy developed by ARENA. It includes the context of the strategy in clause 1, ARENA’s objectives in clause 2 (drawing on the object of the Act and purpose of the new functions) and summary of overall strategy in clause 3. Clause 4 outlines the investment priorities, namely to:

- optimise the transition to renewable electricity,
- commercialise clean hydrogen,
- support the transition to low emissions metals,
- scale up CCS and reduce the cost of soil carbon measurement, and
- deliver targeted programs from the 2020-21 Federal Budget.

Clause 5 clarifies the relationship with the corporate plan⁴ and clause 6 concerns performance reporting.

³ ARENA’s Investment Plan is a document available on ARENA’s website that identifies ARENA’s investment priorities: <https://arena.gov.au/about/publications/funding-investment-plan/>

⁴ For context, ARENA’s corporate plan is available at: <https://arena.gov.au/about/publications/corporate-plan/>