

## **EXPLANATORY STATEMENT**

*Appropriation Act (No. 2) 2021-2022*

*AFM Determination (No. 2 of 2021-2022)*

### **Purpose of this Determination**

The Advance to the Finance Minister (AFM) is a mechanism provided under section 12 of *Appropriation Act (No. 2) 2021-2022* (the Act). Section 12 permits the Finance Minister, by legislative instrument, to effectively amend Schedule 2 to the Act to make provision for certain urgent expenditure up to a total limit of \$3,000 million.

Section 12(1) has the effect that a determination can only be made under s 12(2) if the Finance Minister is satisfied there is an urgent need for expenditure, in the current year, that is not provided for, or is insufficiently provided for, in Schedule 2 of the Act either:

- because of an erroneous omission or understatement (see s 12(1)(a)), or
- because the expenditure was unforeseen until after the last day on which it was practicable to provide for it in the Bill for the Act introduced into the House of Representatives (see s 12(1)(b)).

In relation to the present determination (*AFM Determination (No. 2 of 2021-2022)*), the Finance Minister is satisfied that there is an urgent need for the expenditure for the reason in 12(1)(b).

The Bill for the Act was Appropriation Bill (No. 2) 2021-2022 (the Bill). The Bill was introduced into the House of Representatives on 11 May 2021. The Finance Minister is satisfied, based on information provided by the National Recovery and Resilience Agency (NRRA) that the additional expenditure was unforeseen until after the last day on which it was practicable to provide for it in the Bill before it was introduced to the House of Representatives on this date.

Additional funding is provided to the NRRA to support a decision by the Australian Government to extend the availability of the Pandemic Leave Disaster Payment (PLDP) until 30 June 2022.

The PLDP is a lump sum payment of up to \$1,500 made to people who cannot earn an income because they must self-isolate, quarantine or care for someone who has to self-isolate or quarantine.

The NRRA assumed policy responsibility for the PLDP from 1 July 2021. At the 2021-22 Budget, the NRRA received \$12.6 million in appropriation funding for the PLDP in 2021-22, for the period from July to October 2021, based on the outlook at that time for expected COVID cases. Actual expenditure for the payment has been higher than originally estimated due to the continuing rate of spread for COVID-19, in particular the emergence of the COVID-19 Delta variant which has higher reproductive characteristics compared to preceding strains.

The Finance Minister has made a determination under s 12(2) of the Act. The result of the determination is that Schedule 2 of the Act will have effect as if it were amended as specified in the determination. The total amount that the present determination makes provision for is \$66 million.

The effect of s 12(4) of the Act is that although the determination is a legislative instrument, it is not subject to disallowance in accordance with s 42 of the *Legislation Act 2003* (Legislation Act).

Section 12(4) of the Act also provides that the determination will not sunset in accordance with Part 4 of Chapter 3 of the Legislation Act.

### **Statement of Compatibility with Human Rights**

Appropriation Acts perform an important constitutional function, by authorising the withdrawal of money from the Consolidated Revenue Fund for the broad purposes identified in the annual Appropriation Acts. However, annual Appropriation Acts do not create rights or impose any duties on an individual.

Given that the legal effect of annual Appropriation Acts is limited in this way, an increase to amounts appropriated in accordance annual Appropriation Acts through the AFM mechanism does not engage

or otherwise affect the human rights described in the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Consultation and Impact**

The NRRA was consulted in the preparation of this determination in accordance with s 17 of the Legislation Act.

This determination results in the amount specified in the administered item for Outcome 1 for NRRA, as set out in Schedule 2 to the Act, being increased by \$66,000,000.