

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and Community Housing

Fuel Indexation (Road Funding) Special Account Act 2015

Fuel Indexation (Road Funding) Special Account Determination 2022

Subsection 8(1) of the *Fuel Indexation (Road Funding) Special Account Act 2015* (the Act) provides that the Minister may determine, by writing, that a specified amount is to be credited to the Fuel Indexation (Road Funding) special account (the special account) on a specified day.

The Act establishes and provides rules for the operation of the special account to ensure that the additional net revenue from the introduction of fuel indexation (that is, the indexation of excise and excise equivalent customs duty applying to fuels, other than aviation fuels) is used for road infrastructure funding.

Under the rules set out in section 8 of the Act, the Minister may, in writing, determine that an amount is to be credited to the special account. In determining this amount, the Minister must have regard to the purpose of the special account. Section 9 of the Act specifies that the purpose of the special account is to ensure that amounts equal to the fuel indexation amount for a financial year are transferred into the COAG Reform Fund, to fund State and Territory expenditure in relation to investment in Australian road infrastructure.

The fuel indexation amount for a financial year is defined by subsection 9(2) of the Act as, broadly, the net increase in revenue in that financial year resulting from the re-introduction of fuel indexation in 2014, after deducting any offsetting increases in tax credits, rebates and grants that also resulted from the indexation.

This determination provides for \$1,001,000,000.00 to be credited to the Fuel Indexation (Road Funding) special account on the day the determination commenced. This amount is equal to the fuel indexation amount for the 2020-21 financial year.

This determination commenced on the day after it was registered on the Federal Register of Legislation.

Under subsection 8(3) of the Act, the determination is a legislative instrument but is not subject to disallowance, as the instrument is largely machinery in nature where the amount being determined is simply a statement of fact to be derived from data held by the Australian Government. The Minister does not have a broad discretion to determine the amount to credit to the special account as the Minister must have regard to the purpose of the account.

Treating the determination as not disallowable minimises uncertainty. The risk of disallowance would delay decisions to apply the amounts in the special account for road infrastructure funding until after the disallowance period had expired. Delays would also occur if the instrument was disallowed and arrangements needed to be put

in place for remaking a revised instrument or legislation needed to be passed to give effect to the intended operation of the determination.

The instrument will sunset in accordance with Part 4 of the *Legislation Act 2003*.

No consultation was undertaken on this determination as it is minor and mechanical in nature, only involving the determination of an amount from available data, consistent with the rules set out in sections 8 and 9 of the Act.