

## **EXPLANATORY STATEMENT**

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

*Financial Framework (Supplementary Powers) Act 1997*

*Financial Framework (Supplementary Powers) Amendment  
(Prime Minister and Cabinet's Portfolio Measures No. 4) Regulations 2024*

The *Financial Framework (Supplementary Powers) Act 1997* (the FFSP 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 FFSP 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 Principal Regulations are exempt from sunseting under section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (item 28A). If the Principal Regulations were subject to the sunseting regime under the *Legislation Act 2003*, this would generate uncertainty about the continuing operation of existing contracts and funding agreements between the Commonwealth and third parties (particularly those extending beyond 10 years), as well as the Commonwealth's legislative authority to continue making, varying or administering arrangements, grants and programs.

Additionally, the Principal Regulations authorise a number of activities that form part of intergovernmental schemes. It would not be appropriate for the Commonwealth to unilaterally sunset an instrument that provides authority for Commonwealth funding for activities that are underpinned by an intergovernmental arrangement. To ensure that the Principal Regulations continue to reflect government priorities and remain up to date, the Principal Regulations are subject to periodic review to identify and repeal items that are redundant or no longer required.

Section 32B of the FFSP 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. Section 32D of the FFSP Act confers powers of delegation on Ministers and the accountable authorities of non-corporate Commonwealth entities, including subsection 32B(1) of the Act. Schedule 1AA and Schedule 1AB to the Principal Regulations specify the arrangements, grants and programs.

Section 65 of the FFSP 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.

The *Financial Framework (Supplementary Powers) Amendment (Prime Minister and Cabinet's Portfolio Measures No. 4) Regulations 2024* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on activities to be administered by the National Indigenous Australians Agency, within the Prime Minister and Cabinet Portfolio.

Funding will be provided for the:

- Indigenous Advancement—Jobs, Land and Economy program for activities, assistance, infrastructure, research and services that promote jobs and economic opportunities for Indigenous persons, families, entities and communities or assist them to gain rights and interests in, or derive economic or social benefits from the use of land and sea (existing funding of \$4,312.9 million over four years from 2024-25);
- Indigenous Advancement—Children and Schooling program for activities, assistance, infrastructure, research and services to increase Indigenous school attendance and promote improved educational outcomes, and nurture, safeguard and educate Indigenous children and youth to ensure that they have the best pathways possible to prosperity and wellbeing (existing funding of \$1,137.7 million over four years from 2024-25);
- Indigenous Advancement—Safety and Wellbeing program for activities, assistance, infrastructure, research and services which aim to enhance Indigenous community safety, including in the area of community safety and violence prevention, combating drug, alcohol and other substance misuse, food security, health, and social and emotional wellbeing initiatives, and providing support and access to legal services and justice, including interpreter services (existing funding of \$1,657.8 million over four years from 2024-25);
- Indigenous Advancement—Culture and Capability program for activities, assistance, infrastructure, research and services that promote the value of culture to Aboriginal and Torres Strait Islander peoples identity and contribute to Aboriginal and Torres Strait Islander peoples participating freely and fully in Australian society as equals and free from discrimination (existing funding of \$232.4 million over four years from 2024-25);
- Indigenous Advancement—Remote Australia Strategies program for activities, assistance, infrastructure, research and services that address social and economic disadvantage for Indigenous persons, families and communities, particularly in remote Australia (existing funding of \$268.3 million over four years from 2024-25);
- Supporting youth in Central Australia program for activities, infrastructure and services in Central Australia in the Northern Territory that promote the safety and wellbeing of children and young people, their families and communities or otherwise support their positive development (\$24.1 million over four years from 2024-25);
- Supporting Indigenous leaders and organisations in Central Australia program for activities, projects, research and services that assist Indigenous leaders and Indigenous organisations in Central Australia in the Northern Territory to develop or improve leadership capabilities and related skills, including through developing or enhancing the organisation's governance and corporate functions (\$10.0 million over four years from 2024-25); and
- Remote Jobs and Economic Development Program—job creation, for the creation of jobs in remote Australia by providing funding to eligible employers to subsidise the wages and employee entitlements of eligible persons whom they employ (\$536.1 million over five years from 2024-25).

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 registration on the Federal Register of Legislation.

### **Consultation**

In accordance with section 17 of the *Legislation Act 2003*, consultation has taken place with the National Indigenous Australians Agency.

A regulatory impact analysis 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 (Prime Minister and Cabinet’s Portfolio Measures No. 4) Regulations 2024***

**Section 1 – Name**

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Prime Minister and Cabinet’s Portfolio Measures No. 4) Regulations 2024*.

**Section 2 – Commencement**

This section provides that the Regulations commence on the day after registration 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***

The items in Schedule 1 amend Schedule 1AB to the Principal Regulations to provide legislative authority for government spending on activities to be administered by the National Indigenous Australians Agency (the Agency), within the Prime Minister and Cabinet Portfolio.

**Item 1 – Part 4 of Schedule 1AB (table item 35, column headed “Objective(s)”, paragraph (j))**

***Amended table item 35 – Indigenous Advancement—Jobs, Land and Economy***

Table item 35 in Part 4 of Schedule 1AB establishes legislative authority for government spending on the Indigenous Advancement—Jobs, Land and Economy (Jobs, Land and Economy program).

Item 1 amends table item 35 by repealing paragraph (j) in the column headed “Objective(s)”. This is a technical amendment to update the operational provisions which support spending activities under the Jobs, Land and Economy program. The amendment is minor and does not alter the delivery of the program.

**Item 2 – Part 4 of Schedule 1AB (at the end of table item 35, column headed “Objective(s)”)**

Item 2 amends table item 35 by adding a third funding objective to the Jobs, Land and Economy program in the column headed “Objective(s)”. The amendment enables funding to be provided to eligible organisations that provide the activities, assistance, infrastructure, research and services referred to in the first objective of the Jobs, Land and Economy program, in order to:

- a) support the organisations by funding the operating costs associated with providing the activities, assistance, infrastructure, research and services;
- b) assist the organisations to obtain and to claim insurance, other than State insurance;
- c) provide financial assistance to the organisations that are insolvent, or are at an imminent risk of becoming insolvent; and
- d) assist the organisations that are insolvent to deal with the consequences of insolvency.

The Jobs, Land and Economy program is one of six funding streams of the Indigenous Advancement Strategy (IAS) program. The IAS was established in 2014-15 as a flexible funding pool which combined over 150 Indigenous programs that had been administered across eight different Commonwealth agencies. The IAS structure comprises six program streams that fund a diverse range of activities, from major ongoing services, such as employment and schooling, to small/medium grants for improving outcomes for Indigenous Australians, these are:

- Program 1.1 Jobs, Land and the Economy;
- Program 1.2 Children and Schooling;
- Program 1.3 Safety and Wellbeing;
- Program 1.4 Culture and Capability;
- Program 1.5 Remote Australia Strategies; and
- Program 1.6 Research and Evaluation.

In 2022-23, the proportion of activities in each program that were assessed to have met or exceeded core delivery requirements ranged between 84.7 per cent and 92.1 per cent. 98.3 per cent of IAS investments in 2022-23 aligned with both the *National Agreement on Closing the Gap* outcomes and Priority Reform areas.

The Jobs, Land and Economy program supports Aboriginal and Torres Strait Islander Australians to overcome barriers to employment and economic participation. It does this by connecting Aboriginal and Torres Strait Islander peoples with sustainable jobs, and ensuring remote job seekers participate in activities that provide both work-readiness experience and that contribute to the broader community.

Another key support element is fostering Indigenous business and assisting Aboriginal and Torres Strait Islander peoples to generate economic and social benefits from natural and cultural assets, through the effective management of Indigenous-owned land and seas and by supporting Aboriginal and Torres Strait Islander peoples to have their native title rights recognised.

More specifically, the Jobs, Land and Economy program aims to:

- support Aboriginal and Torres Strait Islander peoples to find and remain in sustainable work;
- support remote job seekers' work readiness, through community activities and work experience;
- foster Indigenous business;
- assist Aboriginal and Torres Strait Islander peoples to generate economic and social benefit from natural and cultural assets, including through the effective and sustainable management of their land; and
- assist Aboriginal and Torres Strait Islander peoples to progress land and sea claims, and township leases under Commonwealth native title and land rights legislation.

The desired outcomes of the Jobs, Land and Economy program include:

- increasing employment and participation rates for Aboriginal and Torres Strait Islander peoples;
- increasing the number of Aboriginal and Torres Strait Islander peoples participating in activities and work experience that build work-readiness and contribute to community;
- increasing the proportion of school/tertiary students and graduates connecting to employment through pathway activities including, but not limited to, school-based traineeships and cadetships;
- increasing the number of Aboriginal and Torres Strait Islander participants who reach 26 weeks and/or longer outcomes in employment;
- increasing the number and viability of Indigenous enterprises;
- supporting Australian workplaces to increase their cultural competency and employment of Aboriginal and Torres Strait Islander peoples;
- engaging local communities in employment solutions;
- support for Aboriginal and Torres Strait Islander peoples in prison to transition into employment on their release from prison;
- assisting Aboriginal and Torres Strait Islander peoples engaged in jobs to engage in jobs relating to land and sea management;
- progressing land and sea claims and township leases under Commonwealth native title and land rights legislation; and
- supporting Aboriginal and Torres Strait Islander peoples to use their land and sea assets to create economic and social benefits.

The Jobs, Land and Economy program complements a range of state, territory and Commonwealth programs, which also aim to improve Aboriginal and Torres Strait Islander Australians' employment outcomes and to support the development of Indigenous businesses, entrepreneurial skills and community economic participation. It does this by addressing gaps between these activities and targeting additional investment where it can maximise employment opportunities and economic outcomes for Aboriginal and Torres Strait Islander peoples.

The Jobs, Land and Economy program may also provide funding for projects that address immediate need in community through small-scale place-based activities that align with the IAS objectives.

Funding amount and arrangements, merits review and consultation

Existing funding of \$4,312.9 million over four years from 2024-25 for this item comes from Program 1.1: Jobs, Land and the Economy, which is part of Outcome 1. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.13, Prime Minister and Cabinet Portfolio* (National Indigenous Australia Agency) at page 204.

The Agency delivers the Jobs, Land and Economy program through a grant process. The selection process could take the form of targeted or restricted competitive, closed or open non-competitive, depending on the grant opportunities. In assessing grant proposals, the Agency takes into consideration whether the proposals would address a need for Aboriginal and Torres Strait Islander peoples. Proposals should be developed with the target community or groups who will be impacted by the proposed activity.

Current and active grants will continue to be administered in accordance with the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) and the *Commonwealth Grants Rules and Principles 2024* (CGRPs).

Consistent with the CGRPs, existing grant opportunity guidelines have been updated (where relevant) or new grant opportunity guidelines will be developed (when required), and the Agency will have regard to the nine key principles in administering the grant.

Grant opportunity guidelines, and information about the grant are available on the GrantConnect website ([www.grants.gov.au](http://www.grants.gov.au)).

The Chief Executive Officer (CEO) of the Agency has delegated the power to enter into, vary or administer a grant or arrangement in respect of a program to the following delegates in accordance with the *Financial Framework (Supplementary Powers) Act 1997* (FFSP Act):

- Deputy CEO – no limits;
- Senior Executive Service (SES) Band 2 – up to \$10.0 million (GST exclusive); and
- SES Band 1 – up to \$2.0 million (GST exclusive).

The delegate entering into, varying or administering grant arrangements will be required to have appropriate and relevant skills in exercising their administrative power.

Funding decisions relating to grants for the Jobs, Land and Economy program will not be suitable for independent merits review as the decisions are based on an allocation of finite resources and an allocation that has already been made to another party would be affected by overturning the original decision. In addition, where decisions are based on the provision of one-off payments to certain service providers, over other service providers, independent merits review will also not be suitable. 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?* (ARC guide)).

The review and audit process undertaken by the Australian National Audit Office (ANAO) also 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.

Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The IAS was established in 2014, consolidating 27 programs consisting of 150 administered items and activities delivered across eight departments, into five overarching program streams (with a sixth added in 2017). This was performed in consultation with all major Commonwealth departments, inclusive of the Department of Finance and the Department of the Prime Minister and Cabinet. The objective of the establishment of the IAS was to improve the strategic clarity, effectiveness, efficiency and flexibility of Commonwealth First Nations investment. Ongoing consultation with service providers, community and IAS grant recipients ensures that the Agency can effectively monitor the effectiveness of IAS expenditure, in line with the overarching IAS objectives.

Consultation has, and continues to, occur with the Coalition of Peaks, community controlled organisations, state and territory governments, community members, and parties to the National Agreement in relation to Closing the Gap. This consultation is part of building a rigorous and effective funding program that improves outcomes for Indigenous Australians.

The consultations inform the design and redesign of activities funded under each program, including the Jobs, Land and Economy program and streamlining administrative process to achieve efficient and effective activities. This consultation is to design and deliver activities that meet the needs, priorities and aspirations of First Nations peoples and communities.

Since the Agency's creation as an Executive Agency in 2019, it has:

- led and coordinated Commonwealth policy development, program design and implementation and service delivery for Aboriginal and Torres Strait Islander peoples;
- led and coordinated the development and implementation of Australia's Closing the Gap targets in partnership with Indigenous Australians; and
- built and maintained effective partnerships with Aboriginal and Torres Strait Islander peoples, state and territory governments and other relevant stakeholders to inform whole-of-government priorities for Aboriginal and Torres Strait Islander peoples, and enable policies, programs and services to be tailored to the unique needs of communities.

To implement its corporate vision, that Aboriginal and Torres Strait Islander peoples are heard, recognised and empowered, the Agency continues to ensure Aboriginal and Torres Strait Islander peoples have a say in decisions that affect them. It does this by leading and influencing change across government, working in genuine partnership with First Nations communities and implementing its internal transformation plan *Galambany* (you, me, we, together). This consultation focuses the Agency's role, and how it works to support the Government to meet the needs, priorities and aspirations of First Nations peoples and communities.



### Constitutional considerations

Noting that it is not a comprehensive statement of relevant constitutional considerations, the additional objective at the end of table item 35 references the following powers of the Constitution:

- the race power (section 51(xxvi));
- the insurance power (section 51(xiv)); and
- the bankruptcy and insolvency power (section 51(xvii)).

#### *Race Power*

Section 51(xxvi) of the Constitution empowers the Parliament to make laws with respect to ‘[t]he people of any race for whom it is deemed necessary to make special laws’.

The funding would enable the delivery of various activities that are for the benefit of Aboriginal and Torres Strait Islander people, including incidentally by funding grant recipients that need additional financial support to deliver those activities (e.g. to pay for their operating costs).

#### *Insurance power*

Section 51(xiv) of the Constitution empowers the Parliament to make laws with respect to ‘[i]nsurance, other than State insurance; also State insurance extending beyond the limits of the State concerned’.

The funding would include making payments to grant recipients to obtain, and claim on, the insurance policies that are needed to operate their business to deliver the activities under this item.

#### *Bankruptcy and insolvency power*

Section 51(xvii) of the Constitution empowers the Parliament to make laws with respect to ‘[b]ankruptcy and insolvency’.

The funding would include making payments to grant recipients to prevent, or deal with, the consequences of insolvency, both to prevent or deal with a grant recipient’s own insolvency or where the grant recipient is financially negatively impacted by another person’s insolvency.

### Amended table item 36 – Indigenous Advancement—Children and Schooling

#### **Item 3 – Part 4 of Schedule 1AB (table item 36, column headed “Objective(s)”, paragraph (h))**

Table item 36 in Part 4 of Schedule 1AB establishes legislative authority for government spending on the Indigenous Advancement—Children and Schooling (Children and Schooling program).

Item 3 amends table item 36 by repealing paragraph (h) in the column headed “Objective(s)”. This is a technical amendment to update the operational provisions which support spending activities under the Children and Schooling program. The amendment is minor and does not alter the delivery of the program.

**Item 4 – Part 4 of Schedule 1AB (at the end of table item 36, column headed “Objective(s)”)**

Item 4 amends table item 36 by adding a third funding objective to the Children and Schooling program in the column headed “Objective(s)”. The amendment enables funding to be provided to eligible organisations that provide the activities, assistance, infrastructure, research and services referred to in the first objective of the Children and Schooling program, in order to:

- a) support the organisations by funding the operating costs associated with providing the activities, assistance, infrastructure, research and services;
- b) assist the organisations to obtain and to claim insurance, other than State insurance;
- c) provide financial assistance to the organisations that are insolvent, or are at an imminent risk of becoming insolvent; and
- d) assist the organisations that are insolvent to deal with the consequences of insolvency.

The Children and Schooling program is the second funding stream of the IAS program. The IAS was established in 2014-15 as a flexible funding pool which combined over 150 Indigenous programs that had been administered across eight different Commonwealth agencies. The IAS program supports a diverse range of activities, from major ongoing services, such as employment and schooling, to small/medium grants for improving outcomes for Indigenous Australians.

The Children and Schooling program’s critical focus is on ensuring the healthy development of Aboriginal and Torres Strait Islander children in their earliest years, increased school attendance and improved educational outcomes that lead to employment. It seeks to achieve this through activities that nurture and educate Aboriginal and Torres Strait Islander children, youth and adults to improve pathways to prosperity and wellbeing. This includes support for children and young people to be engaged in their education and to transition into higher education, training, employment or positive pathways; and improving family and parenting support. This also includes consideration of the specific needs for Aboriginal and Torres Strait Islander females and males in achieving improved educational outcomes for students.

More specifically, the objective of the Children and Schooling program is to deliver activities that contribute to the wellbeing of Aboriginal and Torres Strait Islander children, youth and adults that ensure:

- children receive a healthy, safe and positive start to life;
- parents, carers and families nurture their children’s development, school readiness, and life ambitions;
- children get to school every day ready and able to participate to their full ability;
- improvements in literacy and numeracy; and
- young people successfully transition to further education and work.

The desired outcomes of the Children and Schooling program are:

- increasing access and participation of Aboriginal and Torres Strait Islander children in high quality early years services that support positive and healthy child development. Activities contributing toward this outcome may include:
  - ‘Outside the classroom’ activities to improve health, cognition and physical development of children;
  - activities that complement mainstream funding, facilitate access to services, or fill a gap where mainstream services are unavailable; and
  - building a qualified workforce and service delivery system to ensure quality outcomes regardless of location.
- increasing Aboriginal and Torres Strait Islander parents and families confidence and participation in their children’s development from conception. Activities contributing toward this outcome may include:
  - early intervention initiatives that strengthen the capacity and confidence of families to support positive development from conception, during pregnancy and through the early years of a child’s life; and
  - engaging parents and community in quality facilitated health, education and training, including early years’ services and support.
- increasing school attendance and improving educational outcomes, including literacy and numeracy. Activities contributing toward this outcome may include:
  - demonstrating national leadership in education for Aboriginal and Torres Strait Islander peoples;
  - providing ‘outside the classroom’ activities (actions which support the capacity building of parents, caregivers and communities) that complement mainstream grant funding; and
  - supporting the capacity building of parents, caregivers and communities to actively participate in and make informed decisions about their children’s education.
- increasing Year 12 or equivalent attainment, including vocational training and education. Activities contributing toward this outcome may include:
  - supporting Aboriginal and Torres Strait Islander students who study away from home, particularly those who do not have a full secondary program in their home communities; and
  - improving the capacity of Aboriginal and Torres Strait Islander peoples to get jobs and advance their career aspirations;
- increasing numbers of students working toward a post school qualification— Certificate III or above. An activity contributing towards this outcome may include:
  - supporting ‘Away from Base for mixed mode’ delivery for university and vocational education and training students who study at home but are required to also spend periods of time away at institutions.
- reducing barriers that Aboriginal and Torres Strait Islander children and young people face to participate in education and improved personal development. Activities contributing toward this outcome may include:
  - supporting youth engagement in education and the community, and school retention and attainment, and/or transition activities for compulsory school-aged students;
  - supporting youth engagement in training or tertiary education and/or supporting positive pathways and contributions in the community; and
  - engage parents and community to help drive the demand for quality education and training, including early childhood education and care.

The Children and Schooling program complements a range of state, territory and Australian Government programs that aim to improve the educational outcomes and engagement in employment of Aboriginal and Torres Strait Islander peoples. It provides opportunities to complement existing services, enables innovation and leverages further grant funding.

*Funding amount and arrangements, merits review and consultation*

Existing funding of \$1,137.7 million over four years from 2024-25 for this item comes from Program 1.2 – Children and Schooling which is part of Outcome 1. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.13, Prime Minister and Cabinet Portfolio* (National Indigenous Australians Agency) at page 204.

The Agency delivers the Children and Schooling program through a grant process. The selection process could take the form of targeted or restricted competitive, closed or open non-competitive depending on the grant opportunities. In assessing grant proposals, the Agency takes into consideration whether the proposals would address a need for Aboriginal and Torres Strait Islander peoples. Proposals should be developed with the target community or group who will be impacted by the proposed activity.

Current and active grants will continue to be administered in accordance with the Commonwealth resource management framework, including PGPA Act, the PGPA Rule and the CGRPs.

Consistent with the CGRPs, existing grant opportunity guidelines have been updated (where relevant) or new grant opportunity guidelines will be developed (when required), and the Agency will have regard to the nine key principles in administering the grant.

Grant opportunity guidelines and information about the grant are available on the GrantConnect website ([www.grants.gov.au](http://www.grants.gov.au)).

The CEO of the Agency has delegated the power to enter into, vary or administer a grant or arrangement in respect of a program to the following delegates in accordance with the FFSP Act:

- Deputy CEO – no limits;
- SES Band 2 – up to \$10.0 million (GST exclusive); and
- SES Band 1 – up to \$2.0 million (GST exclusive).

The delegate entering into, varying or administering grant arrangements will be required to have appropriate and relevant skills in exercising their administrative power.

Funding decisions relating to grants for the Children and Schooling program will not be suitable for independent merits review as the decisions are based on an allocation of finite resources and an allocation that has already been made to another party would be affected by overturning the original decision. In addition, where decisions are based on the provision of one-off payments to certain service providers, over other service providers, independent merits review will also not be suitable. 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 ARC guide).

The review and audit process undertaken by the ANAO also 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.

Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The IAS was established in 2014, consolidating 27 programs consisting of 150 administered items and activities delivered across eight departments, into five overarching program streams (with a sixth added in 2017). This was performed in consultation with all material Commonwealth departments, including the Department of Finance and the Department of the Prime Minister and Cabinet. The objective of the establishment of the IAS was to improve the strategic clarity, effectiveness, efficiency and flexibility of Commonwealth First Nations investment. Ongoing consultation with service providers, community and IAS grant recipients ensures that the Agency can effectively monitor the effectiveness of IAS expenditure, in line with the overarching IAS objectives.

Consultation has, and continues to, occur with the Coalition of Peaks, community controlled organisations, state and territory governments, community members, and parties to the National Agreement in relation to Closing the Gap. This consultation is part of building a rigorous and effective funding program that improves outcomes for Indigenous Australians.

The consultations inform the design and redesign of activities funded under each program, including the Children and Schooling program and streamlining administrative process to achieve efficient and effective activities. This consultation is to design and deliver activities that meet the needs, priorities and aspirations of First Nations peoples and communities.

Since the Agency's creation as an Executive Agency in 2019, it has:

- led and coordinated Commonwealth policy development, program design and implementation and service delivery for Aboriginal and Torres Strait Islander peoples;
- led and coordinated the development and implementation of Australia's Closing the Gap targets in partnership with Indigenous Australians; and
- built and maintained effective partnerships with Aboriginal and Torres Strait Islander peoples, state and territory governments and other relevant stakeholders to inform whole-of-government priorities for Aboriginal and Torres Strait Islander peoples, and enable policies, programs and services to be tailored to the unique needs of communities.

To implement its corporate vision, that Aboriginal and Torres Strait Islander peoples are heard, recognised and empowered, the Agency continues to ensure Aboriginal and Torres Strait Islander peoples have a say in decisions that affect them. It does this by leading and influencing change across government, working in genuine partnership with First Nations communities and implementing its internal transformation plan *Galambany* (you, me, we, together). This consultation focuses the Agency's role, and how it works to support the Government to meet the needs, priorities and aspirations of First Nations peoples and communities.

### Constitutional considerations

Noting that it is not a comprehensive statement of relevant constitutional considerations, the additional objective at the end of table item 36 references the following powers of the Constitution:

- the race power (section 51(xxvi));
- the insurance power (section 51(xiv)); and
- the bankruptcy and insolvency power (section 51(xvii)).

#### *Race Power*

Section 51(xxvi) of the Constitution empowers the Parliament to make laws with respect to ‘[t]he people of any race for whom it is deemed necessary to make special laws’.

The funding would enable the delivery of various activities that are for the benefit of Aboriginal and Torres Strait Islander people, including incidentally, by funding grant recipients that need additional financial support to deliver those activities (e.g. to pay for their operating costs).

#### *Insurance power*

Section 51(xiv) of the Constitution empowers the Parliament to make laws with respect to ‘[i]nsurance, other than State insurance; also State insurance extending beyond the limits of the State concerned’.

The funding would include making payments to grant recipients to obtain, and claim on, the insurance policies needed to operate their business to deliver the activities under this item.

#### *Bankruptcy and insolvency power*

Section 51(xvii) of the Constitution empowers the Parliament to make laws with respect to ‘[b]ankruptcy and insolvency’.

The funding would include making payments to grant recipients to prevent or deal with the consequences of insolvency, both to prevent or deal with a grant recipient’s own insolvency or where the grant recipient is financially negatively impacted by another person’s insolvency.

### Amended table item 37 – Indigenous Advancement—Safety and Wellbeing

#### **Item 5 – Part 4 of Schedule 1AB (table item 37, column headed “Objective(s)”)**

Table item 37 in Part 4 of Schedule 1AB establishes legislative authority for government spending on the Indigenous Advancement—Safety and Wellbeing (Safety and Wellbeing program).

Item 5 amends table item 37 by inserting “1” before the words “The funding” in the column headed “Objective(s)”. This is a minor technical amendment to enable sequential numbering to be added to the Safety and Wellbeing program’s funding objective.

**Item 6 – Part 4 of Schedule 1AB (at the end of table item 37, column headed “Objective(s)”)**

Item 6 amends table item 37 by adding a second funding objective to the Safety and Wellbeing program in the column headed “Objective(s)”. The amendment enables funding to be provided to eligible organisations that provide the activities, assistance, infrastructure, research and services referred to in the first objective of the Safety and Wellbeing program, in order to:

- a) support the organisations by funding the operating costs associated with providing the activities, assistance, infrastructure, research and services;
- b) assist the organisations to obtain and to claim insurance, other than State insurance;
- c) provide financial assistance to the organisations that are insolvent, or are at an imminent risk of becoming insolvent; and
- d) assist the organisations that are insolvent to deal with the consequences of insolvency.

The Safety and Wellbeing program is the third funding stream of the IAS program. The IAS was established in 2014-15 as a flexible funding pool which combined over 150 Indigenous programs, that had been administered across eight different Commonwealth agencies. The IAS program supports a diverse range of activities, from major ongoing services, such as employment and schooling, to small/medium grants for improving outcomes for Indigenous Australians.

The objectives of the Safety and Wellbeing program are to:

- enable Aboriginal and Torres Strait Islander peoples to enjoy similar levels of physical, emotional and social wellbeing and safety as those enjoyed by other Australians;
- reduce the rates of crime, violence and substance abuse to build healthier, safer and more resilient communities; and
- make sure Australian laws are followed in all communities across the country.

The objectives of the Safety and Wellbeing program are to make communities safer for Aboriginal and Torres Strait Islander peoples, and enable them to enjoy similar levels of physical, emotional and social wellbeing as those enjoyed by other Australians. Safe communities are places where people thrive and are able to go about their daily activities without fear of violence. They are places where people not only feel safe, but are safe because they are strong, cohesive and vibrant. Feeling well and having a safe community to live in are critical to closing the gap in Indigenous disadvantage. It makes other important things possible, like ensuring children have the best start in life, getting kids to school, helping them achieve good results, and getting adults into jobs.

Addressing violence is key to improving community safety. Aboriginal and Torres Strait Islander peoples are significantly more likely to be victims of violence than non-Aboriginal and Torres Strait Islander peoples. For example, Aboriginal and Torres Strait Islander women are far more likely to be hospitalised because of family violence than non-Aboriginal and Torres Strait Islander women. In addition, Aboriginal and Torres Strait Islander peoples are incarcerated at rates far higher than non-Aboriginal and Torres Strait Islander peoples, with the majority of Aboriginal and Torres Strait Islander peoples imprisoned for violent offences. Activities that address the drivers of violent behaviour and reduce recidivism are a high

priority, as well as those that provide support to victims and address the trauma that results from violence.

Harmful levels of alcohol and substance use is the most significant driver of violence in Aboriginal and Torres Strait Islander communities. Excessive alcohol consumption is also linked to a range of health and social problems. Activities that reduce harmful alcohol and substance use are considered a high priority under the Safety and Wellbeing program, given the links to both community safety and wellbeing outcomes.

Activities that result in a measurable reduction in the rates of offending or recidivism are also a high priority as they focus on preventing violent offending, and subsequently, making communities safer. This would have a positive flow-on effect of reducing the number of Aboriginal and Torres Strait Islander victims and perpetrators of violent crime, and the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system.

Children involved in the child protection system are at significantly higher risk of involvement in the youth justice system, as well as a number of negative life outcomes. Providing early intervention support to vulnerable families to address risk factors and build protective factors is an effective way to prevent contact with the child protection system.

The social and emotional wellbeing of an Aboriginal and Torres Strait Islander person is based on their connection to country, community, family, and culture. Activities that seek to enhance connection to family and community, and build the capacity of individuals to respond to life stressors can be considered under the Safety and Wellbeing program.

The Safety and Wellbeing program seeks to increase levels of community safety and individual wellbeing by funding initiatives that go towards addressing community and government priorities and are informed by evidence. Where appropriate, activities should seek to support the particular and specific experiences of Aboriginal and Torres Strait Islander females and males, to ensure appropriate access to services.

#### *Funding amount and arrangements, merits review and consultation*

Existing funding of \$1,657.8 million over four years from 2024-25 for this item comes from Program 1.3 – Safety and Wellbeing which is part of Outcome 1. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.13, Prime Minister and Cabinet Portfolio* (National Indigenous Australians Agency) at page 205.

The Agency delivers the Safety and Wellbeing program through a grant process. The selection process could take the form of targeted or restricted competitive, closed or open non-competitive depending on the grant opportunities. In assessing grant proposals, the Agency takes into consideration whether the proposals would address a need for Aboriginal and Torres Strait Islander peoples. Proposals should be developed with the target community or group who will be impacted by the proposed activity.

Current and active grants will continue to be administered in accordance with the Commonwealth resource management framework, including the PGPA Act, the PGPA Rule and the CGRPs.



Consistent with the CGRPs, existing grant opportunity guidelines have been updated (where relevant) or new grant opportunity guidelines will be developed (when required), and the Agency will have regard to the nine key principles in administering the grant.

Grant opportunity guidelines and information about the grant are available on the GrantConnect website ([www.grants.gov.au](http://www.grants.gov.au)).

The CEO of the Agency has delegated the power to enter into, vary or administer a grant or arrangement in respect of a program to the following delegates in accordance with the FFSP Act:

- Deputy CEO – no limits;
- SES Band 2 – up to \$10.0 million (GST exclusive); and
- SES Band 1 – up to \$2.0 million (GST exclusive).

The delegate entering into, varying or administering grant arrangements will be required to have appropriate and relevant skills in exercising their administrative power.

Funding decisions relating to grants for the Safety and Wellbeing program will not be suitable for independent merits review as the decisions are based on an allocation of finite resources and an allocation that has already been made to another party would be affected by overturning the original decision. In addition, where decisions are based on the provision of one-off payments to certain service providers, over other service providers, independent merits review will also not be suitable. 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 ARC guide).

The review and audit process undertaken by the ANAO also 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.

Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The IAS was established in 2014, consolidating 27 programs consisting of 150 administered items and activities delivered across eight departments, into five overarching program streams (with a sixth added in 2017). This was performed in consultation with all material Commonwealth departments, including the Department of Finance and the Department of the Prime Minister and Cabinet. The objective of the establishment of the IAS was to improve the strategic clarity, effectiveness, efficiency and flexibility of Commonwealth First Nations investment. Ongoing consultation with service providers, community and IAS grant recipients ensures that the Agency can effectively monitor the effectiveness of IAS expenditure, in line with the overarching IAS objectives.

Consultation has, and continues to, occur with the Coalition of Peaks, community controlled organisations, state and territory governments, community members, and parties to the National Agreement in relation to Closing the Gap. This consultation is part of building a rigorous and effective funding program that improves outcomes for Indigenous Australians.

The consultations inform the design and redesign of activities funded under each program, including the Safety and Wellbeing program and streamlining administrative process to achieve efficient and effective activities. This consultation is to design and deliver activities that meet the needs, priorities and aspirations of First Nations peoples and communities.

Since the Agency's creation as an Executive Agency in 2019, it has:

- led and coordinated Commonwealth policy development, program design and implementation and service delivery for Aboriginal and Torres Strait Islander peoples;
- led and coordinated the development and implementation of Australia's Closing the Gap targets in partnership with Indigenous Australians; and
- built and maintained effective partnerships with Aboriginal and Torres Strait Islander peoples, state and territory governments and other relevant stakeholders to inform whole-of-government priorities for Aboriginal and Torres Strait Islander peoples, and enable policies, programs and services to be tailored to the unique needs of communities.

To implement its corporate vision, that Aboriginal and Torres Strait Islander peoples are heard, recognised and empowered, the Agency continues to ensure Aboriginal and Torres Strait Islander peoples have a say in decisions that affect them. It does this by leading and influencing change across government, working in genuine partnership with First Nations communities and implementing its internal transformation plan *Galambany* (you, me, we, together). This consultation focuses the Agency's role, and how it works to support the Government to meet the needs, priorities and aspirations of First Nations peoples and communities.

### Constitutional considerations

Noting that it is not a comprehensive statement of relevant constitutional considerations, the additional objective at the end of table item 37 references the following powers of the Constitution:

- the race power (section 51(xxvi));
- the insurance power (section 51(xiv)); and
- the bankruptcy and insolvency power (section 51(xvii)).

#### *Race Power*

Section 51(xxvi) of the Constitution empowers the Parliament to make laws with respect to '[t]he people of any race for whom it is deemed necessary to make special laws'.

The funding would enable the delivery of various activities that are for the benefit of Aboriginal and Torres Strait Islander people, including incidentally by funding grant recipients that need additional financial support to deliver those activities (e.g. to pay for their operating costs).

#### *Insurance power*

Section 51(xiv) of the Constitution empowers the Parliament to make laws with respect to '[i]nsurance, other than State insurance; also State insurance extending beyond the limits of the State concerned'.

The funding would include making payments to grant recipients to obtain, and claim on, the insurance policies that are needed to operate their business to deliver the activities under this item.

*Bankruptcy and insolvency power*

Section 51(xvii) of the Constitution empowers the Parliament to make laws with respect to '[b]ankruptcy and insolvency'.

The funding would include making payments to grant recipients to prevent or deal with the consequences of insolvency, both to prevent or deal with a grant recipient's own insolvency or where the grant recipient is financially negatively impacted by another person's insolvency.

*Amended table item 38 – Indigenous Advancement—Culture and Capability*

**Item 7 – Part 4 of Schedule 1AB (table item 38, column headed “Objective(s)”)**

Table item 38 in Part 4 of Schedule 1AB establishes legislative authority for government spending on the Indigenous Advancement—Culture and Capability (Culture and Capability program).

Item 7 amends table item 38 by inserting “1” before the words “The funding” in the column headed “Objective(s)”. This is a minor technical amendment to enable sequential numbering to be added to the Culture and Capability program's funding objective.

**Item 8 – Part 4 of Schedule 1AB (at the end of table item 38, column headed “Objective(s)”)**

Item 8 amends table item 38 by adding a second funding objective to the Culture and Capability program in the column headed “Objective(s)”. The amendment enables funding to be provided to eligible organisations that provide the activities, assistance, infrastructure, research and services referred to in the first objective of the Culture and Capability program, in order to:

- a) support the organisations by funding the operating costs associated with providing the activities, assistance, infrastructure, research and services;
- b) assist the organisations to obtain and to claim insurance, other than State insurance;
- c) provide financial assistance to the organisations that are insolvent, or are at an imminent risk of becoming insolvent; and
- d) assist the organisations that are insolvent to deal with the consequences of insolvency.

The Culture and Capability program is the fourth funding stream of the IAS program. The IAS was established in 2014-15 as a flexible funding pool which combined over 150 Indigenous programs that had been administered across eight different Commonwealth agencies. The IAS program supports a diverse range of activities, from major ongoing services, such as employment and schooling, to small/medium grants for improving outcomes for Indigenous Australians.

The objectives of the Culture and Capability program are to:

- support the expression, engagement and re-vitalisation of Aboriginal and Torres Strait Islander cultures;
- increase Aboriginal and Torres Strait Islander peoples participation in the social and economic life of Australia through strengthening the capability, governance and leadership of Aboriginal and Torres Strait Islander peoples, organisations and communities; and
- promote broader understanding and acceptance of the unique place of Aboriginal and Torres Strait Islander cultures in Australian society.

The Culture and Capability program acknowledges the intrinsic value of culture to Aboriginal and Torres Strait Islander peoples identity. It contributes to Aboriginal and Torres Strait Islander peoples participating freely and fully in Australian society as equals and free from discrimination. Strong culture supports the achievement of outcomes across the IAS priority areas of schooling, economic participation and community safety.

Culture is central to the lives of Aboriginal and Torres Strait Islander peoples and is a key factor in improving and maintaining wellbeing. Pride in culture plays a pivotal role in shaping Aboriginal and Torres Strait Islander peoples aspirations and choices. Efforts to address Indigenous disadvantage must recognise and build on the strengths of Aboriginal and Torres Strait Islander cultures and identities.

Supporting culture better enables Aboriginal and Torres Strait Islander peoples, organisations and communities to participate fully in the social and economic life of Australia. It provides a platform by which individuals, families and communities can contribute to their own development in culturally informed ways. Recognition of the value of Aboriginal and Torres Strait Islander cultures assists in the achievement of a just, inclusive and socially cohesive society.

The Culture and Capability program focuses on developing skills, knowledge and competencies of Aboriginal and Torres Strait Islander peoples, including supporting effective leadership and governance within Aboriginal and Torres Strait Islander communities and organisations. Improving capability can contribute to the development and maintenance of effective partnerships with Aboriginal and Torres Strait Islander peoples, organisations and communities.

Strengthening the capability of Aboriginal and Torres Strait Islander organisations also plays an important role in building social capital of Aboriginal and Torres Strait Islander communities. Capable Aboriginal and Torres Strait Islander organisations with strong leadership that are connected to their communities can facilitate delivery of high quality services and community development initiatives to Aboriginal and Torres Strait Islander peoples.

Strengthening Aboriginal and Torres Strait Islander culture and capability underpins the Government's new engagement with Aboriginal and Torres Strait Islander peoples; an engagement through which the Government and its workforce are better able to work in partnership with Aboriginal and Torres Strait Islander peoples to understand and develop tailored responses to the aspirations and priorities of communities.

Funding amount and arrangements, merits review and consultation

Existing funding of \$232.4 million over four years from 2024-25 for this item comes from Program 1.4 – Culture and Capability, which is part of Outcome 1. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.13, Prime Minister and Cabinet Portfolio* (National Indigenous Australians Agency) at page 205.

The Agency delivers the Culture and Capability program through a grant process. The selection process could take the form of targeted or restricted competitive, closed or open non-competitive depending on the grant opportunities. In assessing grant proposals, the Agency takes into consideration whether the proposals would address a need for Aboriginal and Torres Strait Islander peoples. Proposals should be developed with the target community or group who will be impacted by the proposed activity.

Current and active grants will continue to be administered in accordance with the Commonwealth resource management framework, including the PGPA Act, the PGPA Rule and the CGRPs.

Consistent with the CGRPs, existing grant opportunity guidelines have been updated (where relevant) or new grant opportunity guidelines will be developed (when required), and the Agency will have regard to the nine key principles in administering the grant.

Grant opportunity guidelines and information about the grant are available on the GrantConnect website ([www.grants.gov.au](http://www.grants.gov.au)).

The CEO of the Agency has delegated the power to enter into, vary or administer a grant or arrangement in respect of a program to the following delegates in accordance with the FFSP Act:

- Deputy CEO – no limits;
- SES Band 2 – up to \$10.0 million (GST exclusive); and
- SES Band 1 – up to \$2.0 million (GST exclusive).

The delegate entering into, varying or administering grant arrangements will be required to have appropriate and relevant skills in exercising their administrative power.

Funding decisions relating to grants for the Culture and Capability program will not be suitable for independent merits review as the decisions are based on an allocation of finite resources and an allocation that has already been made to another party would be affected by overturning the original decision. In addition, where decisions are based on the provision of one-off payments to certain service providers, over other service providers, independent merits review will also not be suitable. 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 ARC guide).

The review and audit process undertaken by the ANA) also 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.

Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The IAS was established in 2014, consolidating 27 programs consisting of 150 administered items and activities delivered across eight departments, into five overarching program streams (with a sixth added in 2017). This was performed in consultation with all material Commonwealth departments, including the Department of Finance and the Department of the Prime Minister and Cabinet. The objective of the establishment of the IAS was to improve the strategic clarity, effectiveness, efficiency and flexibility of Commonwealth First Nations investment. Ongoing consultation with service providers, community and IAS grant recipients ensures that the Agency can effectively monitor the effectiveness of IAS expenditure, in line with the overarching IAS objectives.

Consultation has, and continues to, occur with the Coalition of Peaks, community controlled organisations, state and territory governments, community members, and parties to the National Agreement in relation to Closing the Gap. This consultation is part of building a rigorous and effective funding program that improves outcomes for Indigenous Australians.

The consultations inform the design and redesign of activities funded under each program, including the Culture and Capability program and streamlining administrative process to achieve efficient and effective activities. This consultation is to design and deliver activities that meet the needs, priorities and aspirations of First Nations peoples and communities.

Since the Agency's creation as an Executive Agency in 2019, it has:

- led and coordinated Commonwealth policy development, program design and implementation and service delivery for Aboriginal and Torres Strait Islander peoples;
- led and coordinated the development and implementation of Australia's Closing the Gap targets in partnership with Indigenous Australians; and
- built and maintained effective partnerships with Aboriginal and Torres Strait Islander peoples, state and territory governments and other relevant stakeholders to inform whole-of-government priorities for Aboriginal and Torres Strait Islander peoples, and enable policies, programs and services to be tailored to the unique needs of communities.

To implement its corporate vision, that Aboriginal and Torres Strait Islander peoples are heard, recognised and empowered, the Agency continues to ensure Aboriginal and Torres Strait Islander peoples have a say in decisions that affect them. It does this by leading and influencing change across government, working in genuine partnership with First Nations communities and implementing its internal transformation plan *Galambany* (you, me, we, together). This consultation focuses the Agency's role, and how it works to support the Government to meet the needs, priorities and aspirations of First Nations peoples and communities.

### Constitutional considerations

Noting that it is not a comprehensive statement of relevant constitutional considerations, the additional objective at the end of table item 38 references the following powers of the Constitution:

- the race power (section 51(xxvi));
- the insurance power (section 51(xiv)); and
- the bankruptcy and insolvency power (section 51(xvii)).

#### *Race Power*

Section 51(xxvi) of the Constitution empowers the Parliament to make laws with respect to ‘[t]he people of any race for whom it is deemed necessary to make special laws’.

The funding would enable the delivery of various activities that are for the benefit of Aboriginal and Torres Strait Islander people, including incidentally by funding grant recipients that need additional financial support to deliver those activities (e.g. to pay for their operating costs).

#### *Insurance power*

Section 51(xiv) of the Constitution empowers the Parliament to make laws with respect to ‘[i]nsurance, other than State insurance; also State insurance extending beyond the limits of the State concerned’.

The funding would include making payments to grant recipients to obtain, and claim on, the insurance policies that are needed to operate their business to deliver the activities under this item.

#### *Bankruptcy and insolvency power*

Section 51(xvii) of the Constitution empowers the Parliament to make laws with respect to ‘[b]ankruptcy and insolvency’.

The funding would include making payments to grant recipients to prevent or deal with the consequences of insolvency, both to prevent or deal with a grant recipient’s own insolvency or where the grant recipient is financially negatively impacted by another person’s insolvency.

### Amended table item 39 – Indigenous Advancement—Remote Australia Strategies

#### **Item 9 – Part 4 of Schedule 1AB (table item 39, column headed “Objective(s)”, paragraph (m))**

Table item 39 in Part 4 of Schedule 1AB establishes legislative authority for government spending on the Indigenous Advancement—Remote Australia Strategies (Remote Australia Strategies program).

Item 9 amends table item 39 by repealing paragraph (m) in the column headed “Objective(s)”. This is a technical amendment to update the operational provisions which support spending activities under the Remote Australia Strategies program. The amendment is minor and does not alter the delivery of the program.

**Item 10 – Part 4 of Schedule 1AB (at the end of table item 39, column headed “Objective(s)”)**

Item 10 amends table item 39 by adding a third funding objective to the Remote Australia Strategies program in the column headed “Objective(s)”. The amendment enables funding to be provided to eligible organisations that provide the activities, assistance, infrastructure, research and services referred to in the first objective of the Remote Australia Strategies program, in order to:

- a) support the organisations by funding the operating costs associated with providing the activities, assistance, infrastructure, research and services;
- b) assist the organisations to obtain and to claim insurance, other than State insurance;
- c) provide financial assistance to the organisations that are insolvent, or are at an imminent risk of becoming insolvent; and
- d) assist the organisations that are insolvent to deal with the consequences of insolvency.

The Remote Australia Strategies program is the fifth funding stream of the IAS program. The IAS was established in 2014-15 as a flexible funding pool which combined over 150 Indigenous programs that had been administered across eight different Commonwealth agencies. The IAS program supports a diverse range of activities, from major ongoing services, such as employment and schooling, to small/medium grants for improving outcomes for Indigenous Australians.

The Remote Australia Strategies program addresses the disproportionate disadvantage of Aboriginal and Torres Strait Islander peoples in remote Australia. Its objective is to support the achievement of outcomes across the IAS priority areas of schooling, employment and community safety in remote areas.

To address the multiple dimensions of disadvantage that many remote Aboriginal and Torres Strait Islander communities face, the Government is working to refocus remote Aboriginal and Torres Strait Islander funding to support a genuine partnership between government and Aboriginal and Torres Strait Islander peoples and to tailor solutions to local circumstances.

Along with other programs under the IAS, the Remote Australia Strategies program supports the Government’s key priorities of increased participation in education and work, and ensuring safe communities. The Remote Australia Strategies program does this by providing opportunities to complement existing services, enable innovation and leverage further grant funding. It can also be used to address identified gaps in service delivery and infrastructure for remote communities.

Wherever possible, projects funded under the Remote Australia Strategies program should be led by communities, delivered through Aboriginal and Torres Strait Islander organisations and support Aboriginal and Torres Strait Islander employment outcomes. Applicants are also encouraged to leverage off investment from other funding sources, such as state and territory governments.



The desired outcomes of the Remote Australia Strategies program are to support local priorities and contribute to improved education, employment and community safety outcomes in remote areas through:

*Delivery of flexible, tailored local solutions in remote areas*

Tailored local solutions are community-led initiatives that support local and regional innovations. These activities must address a clearly identified community need and be aligned with the Government's priority areas of education, employment and safe and functioning communities. For example, activities that provide increased opportunities for home ownership in remote Australia can address economic development through the growth of personal assets and employment through the provision of accommodation for working households. The activity should either be:

- supported by robust evidence of the ability of the activity to achieve measurable outcomes; and/or
- designed with a built-in evaluation and performance measurement systems that will demonstrate the achievement of the activity's outcomes.

*Improved infrastructure in remote areas.*

Infrastructure is one foundation that support improved Aboriginal and Torres Strait Islander school attendance and attainment, employment and community safety. Activities that can be funded through the Remote Australia Strategies program include:

- new, discrete infrastructure projects;
- urgent critical repairs and replacements for infrastructure in remote Indigenous communities that will impact positively on the health, well-being and environmental safety of community members;
- support for renewable energy systems that contribute to identifiable outcomes under the IAS;
- temporary accommodation facilities so residents of remote communities can access critical services such as hospitals and dialysis clinics, or that address issues such as overcrowding, homelessness, or safety; and
- increased access to, maintenance of and training in telecommunications, including infrastructure that builds on existing services to increase access or coverage and digital literacy and/or cyber safety training.

*Funding amount and arrangements, merits review and consultation*

Existing funding of \$268.3 million over four years from 2024-25 for this item comes from Program 1.5 – Remote Australia Strategies, which is part of Outcome 1. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.13, Prime Minister and Cabinet Portfolio* (National Indigenous Australians Agency) at page 205.

The Agency delivers the Remote Australia Strategies program through a grant process. The selection process could take the form of targeted or restricted competitive, closed or open non-competitive depending on the grant opportunities. In assessing grant proposals, the Agency takes into consideration whether the proposals would address a need for Aboriginal and Torres Strait Islander peoples. Proposals should be developed with the target community or group who will be impacted by the proposed activity.

Current and active grants will continue to be administered in accordance with the Commonwealth resource management framework, including the PGPA Act, PGPA Rule and CGRPs.

Consistent with the CGRPs, existing grant opportunity guidelines have been updated (where relevant) or new grant opportunity guidelines will be developed (when required), and the Agency will have regard to the nine key principles in administering the grant.

Grant opportunity guidelines and information about the grant are available on the GrantConnect website ([www.grants.gov.au](http://www.grants.gov.au)).

The CEO of the Agency has delegated the power to enter into, vary or administer a grant or arrangement in respect of a program to the following delegates in accordance with the FFSP Act:

- Deputy CEO – no limits;
- SES Band 2 – up to \$10.0 million (GST exclusive); and
- SES Band 1 – up to \$2.0 million (GST exclusive).

The delegate entering into, varying or administering grant arrangements will be required to have appropriate and relevant skills in exercising their administrative power.

Funding decisions relating to grants for the Remote Australia Strategies program will not be suitable for independent merits review as the decisions are based on an allocation of finite resources and an allocation that has already been made to another party would be affected by overturning the original decision. In addition, where decisions are based on the provision of one-off payments to certain service providers, over other service providers, independent merits review will also not be suitable. 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 ARC guide).

The review and audit process undertaken by the ANAO also 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.

Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The IAS was established in 2014, consolidating 27 programs consisting of 150 administered items and activities delivered across eight departments, into five overarching program streams (with a sixth added in 2017). This was performed in consultation with all material Commonwealth departments, including the Department of Finance and the Department of the Prime Minister and Cabinet. The objective of the establishment of the IAS was to improve the strategic clarity, effectiveness, efficiency and flexibility of Commonwealth First Nations investment. Ongoing consultation with service providers, community and IAS grant recipients ensures that the Agency can effectively monitor the effectiveness of IAS expenditure, in line with the overarching IAS objectives.

Consultation has, and continues to, occur with the Coalition of Peaks, community controlled organisations, state and territory governments, community members, and parties to the National Agreement in relation to Closing the Gap. This consultation is part of building a rigorous and effective funding program that improves outcomes for Indigenous Australians.

The consultations inform the design and redesign of activities funded under each program, including the Remote Australia Strategies program and streamlining administrative process to achieve efficient and effective activities. This consultation is to design and deliver activities that meet the needs, priorities and aspirations of First Nations peoples and communities.

Since the Agency's creation as an Executive Agency in 2019, it has:

- led and coordinated Commonwealth policy development, program design and implementation and service delivery for Aboriginal and Torres Strait Islander peoples;
- led and coordinated the development and implementation of Australia's Closing the Gap targets in partnership with Indigenous Australians; and
- built and maintained effective partnerships with Aboriginal and Torres Strait Islander peoples, state and territory governments and other relevant stakeholders to inform whole-of-government priorities for Aboriginal and Torres Strait Islander peoples, and enable policies, programs and services to be tailored to the unique needs of communities.

To implement its corporate vision, that Aboriginal and Torres Strait Islander peoples are heard, recognised and empowered, the Agency continues to ensure Aboriginal and Torres Strait Islander peoples have a say in decisions that affect them. It does this by leading and influencing change across government, working in genuine partnership with First Nations communities and implementing its internal transformation plan *Galambany* (you, me, we, together). This consultation focuses the Agency's role, and how it works to support the Government to meet the needs, priorities and aspirations of First Nations peoples and communities.

### Constitutional considerations

Noting that it is not a comprehensive statement of relevant constitutional considerations, the additional objective at the end of table item 39 references the following powers of the Constitution:

- the race power (section 51(xxvi));
- the insurance power (section 51(xiv)); and
- the bankruptcy and insolvency power (section 51(xvii)).

### *Race Power*

Section 51(xxvi) of the Constitution empowers the Parliament to make laws with respect to '[t]he people of any race for whom it is deemed necessary to make special laws'.

The funding would enable the delivery of various activities that are for the benefit of Aboriginal and Torres Strait Islander people, including incidentally by funding grant recipients that need additional financial support to deliver those activities (e.g. to pay for their operating costs).

*Insurance power*

Section 51(xiv) of the Constitution empowers the Parliament to make laws with respect to ‘[i]nsurance, other than State insurance; also State insurance extending beyond the limits of the State concerned’.

The funding would include making payments to grant recipients to obtain, and claim on, the insurance policies that are needed to operate their business to deliver the activities under this item.

*Bankruptcy and insolvency power*

Section 51(xvii) of the Constitution empowers the Parliament to make laws with respect to ‘[b]ankruptcy and insolvency’.

The funding would include making payments to grant recipients to prevent or deal with the consequences of insolvency, both to prevent or deal with a grant recipient’s own insolvency or where the grant recipient is financially negatively impacted by another person’s insolvency.

**Item 11 – In the appropriate position in Part 4 of Schedule 1AB (table)**

Item 11 adds three new table items to Part 4 of Schedule 1AB.

*Table item 698 – Supporting youth in Central Australia*

New **table item 698** establishes legislative authority for government spending on the Supporting youth in Central Australia program (the program).

The program forms part of the broader \$250.0 million package for *A Better, Safer Future for Central Australia Plan* (Central Australia Plan) that was announced by the Government on 6 February 2023 (<https://www.pm.gov.au/media/better-safer-future-central-australia>). The issues facing Central Australia are complex and have developed over decades. The Government is working in genuine partnership with the Central Australia Plan Aboriginal Leadership Group (ALG), the Northern Territory (NT) Government and local communities to ensure investments reflect local priorities and needs.

The Central Australia Plan is contributing to improved community safety and overcoming social disadvantage in Central Australia through a focus on the following investments:

- improved community safety and cohesion – through more youth engagement and diversion programs;
- job creation – particularly in the communities that surround Alice Springs – including urgent changes as part of replacing the failed Community Development Program;
- better services – by improving health and other services in surrounding communities, there will be less pressure on Alice Springs;
- preventing and addressing the issues caused by Foetal Alcohol Spectrum Disorders – including better responding through the health and justice systems;
- investing in families – including by better supporting elders and parents, boosting domestic violence services; and

- on country learning – improving school attendance and completion through caring for culture and country.

The program responds directly to the ‘improve community safety and cohesion’ category and was identified as one of the priority areas for investment by the ALG in 2024. The ALG was established in June 2023 to provide independent advice to both Commonwealth and NT governments on the implementation of the Central Australia Plan. Bringing together Aboriginal leaders from Alice Springs and remote communities, the ALG provides a governance structure through which community perspectives contribute to identifying priorities, needs and solutions and work in genuine partnership with government.

The program includes significant co-design with communities, with the ALG continuing to provide advice, in partnership with the Agency, to the Minister for Indigenous Australians (the Minister).

The ALG and the wider Central Australia community have identified a need for governments to further support youth development in Central Australia. This includes embedding Closing the Gap Targets that support young people through improving their safety and wellbeing, their opportunities to contribute to the economic and social development of their communities and helping them be strong in culture.

In particular, the activities, small scale infrastructure projects and services will promote the safety and wellbeing of Indigenous youth, their families and communities, and support young people’s positive development, including through:

- promoting physical, mental, social or emotional wellbeing, good nutrition, food security and health and safety;
- reducing the likelihood of young people engaging in anti-social behaviour;
- addressing violence and substance abuse;
- promoting social inclusion and engagement, including through sporting, recreational and community opportunities;
- developing and providing access to information and data to inform the design, promotion and evaluation of youth programs and community services;
- providing better access to developmental and educational opportunities;
- promoting positive development; and
- assisting with the transition to work, vocational or higher education.

Activities under the program will support the recommendations of the Youth Services Action Plan (YSAP), which highlighted that while there is a range of youth activities including sports, recreation and cultural activities that are delivered in Central Australia, there is a significant gap in delivery. Additionally, there are high need youth cohorts that are not catered for, and a need for a far higher level of community co-design and involvement in delivery, particularly in remote communities. Further, with the new NT Government actively considering reducing the age of criminal responsibility and imposing harsher penalties for young offenders, there is an urgent need to support young people to engage in activities which enable positive development. Together, this calls for strengthening of enablers of service delivery and delivery of targeted programs to support specific youth cohorts.

The YSAP outlines three priority areas, and four enablers to achieve the desired future state articulated by the Central Australia community. The three priority areas include:

- family and community – strengthening governance and community leadership of youth services;
- youth services – expanding the variety of services available across communities and addressing the needs of under-serviced groups; and
- broader system services – improving coordination with other services.

The four enablers of youth services in Central Australia are:

- workforce – enhancing the capability of youth services to meet young people’s needs;
- infrastructure – upgrading youth infrastructure and resources;
- funding models – transitioning funding models towards locally led approaches; and
- monitoring and evaluation – consistently monitoring and evaluating activities that achieve the vision for the future laid out in the YSAP requires a transition towards community control of services and programs, and growing the Aboriginal Community Controlled Youth Services sector, consistent with the Closing the Gap Priority Reform Areas.

The YSAP outlines a 10-year time horizon for implementing measures to achieve the future vision. In the short term (phase 1), approximately 3 - 4 years, actions will focus on:

- building system capacity across the region by giving communities greater decision-making authority over youth services;
- providing avenues for family and community engagement, increasing the range of activities available for young people in communities;
- better connecting youth services with broader services;
- addressing critical gaps in workforce and infrastructure and trialling new funding approaches; and
- investing in monitoring and evaluation.

In the longer-term of five to ten years (phase 2, post 2028), actions will focus on developing a network of local and community-controlled youth service providers across the region, enhancing the quality and availability of youth services informed by evidence and continuing to grow the local workforce.

Activities expected to be funded under the program will support the safety and wellbeing of young people in Central Australia, with an emphasis on youth living in regional and remote areas. Funding may be directed towards the recruitment of additional local youth workers, life skills programs such as cooking nutritious food, using technology and building entrepreneurial skills, upgrading recreation halls to enable more spaces and activities that cater for different ages and genders, or supporting Aboriginal Community Controlled Organisations to run culturally appropriate youth-related activities.

Some providers that may benefit from this funding include the MacDonnell Regional Council, Central Desert Regional Council, Tangentyere Council, Lhere Artepe Aboriginal Corporation, Akeyulerre Aboriginal Corporation and Alice Springs Town Council. Funding provided for the activities could complement existing services as several of these organisations already receive funding to deliver programs under the Central Australia Plan and other activities funded by the Agency.

Activities supported under the program will build on the successful youth support programs already in place across the region including the Summer in Central Australia (SICA) plan. The SICA delivered activities during the summer of 2024 to address anti-social behaviour among young people and build social cohesion. The program successfully engaged a significant youth cohort and indicates the level of engagement with activities under the new initiative. Through SICA, multiple activities to engage youth were delivered by three Central Australia Councils and two Aboriginal Corporations. In Alice Springs, 101 activities were held, with over 13,300 attendances by young people in various programs. Approximately 80 per cent of these participants were Indigenous. Activities were also successful in remote communities, for example the MacDonnell Regional Council delivered 500 activities attracting more than 5,600 attendances by young people.

#### Funding amount and arrangements, merits review and consultation

Funding of \$24.1 million over four years from 2024-25 for the program will be included in the 2024-25 Mid-Year Economic and Fiscal Outlook and the Portfolio Additional Estimates Statements for the Prime Minister and Cabinet Portfolio (National Indigenous Australians Agency). Funding will come from Program 1.3: Safety and Wellbeing, Program 1.4: Culture and Capability, and Program: 1.7 Departmental, which are part of Outcome 1.

The YSAP recommends trialling new funding models to support local, community designed and run activities, such as grants and direct tenders. To ensure these recommendations are embedded in the co-design process, the Agency will ensure consultation occurs with the NT Government, the ALG, the Central Australia Aboriginal Youth Roundtable, and communities in the first quarter of 2025.

Following a process of consultation, the Agency will consider and make recommendations to the Minister on the priority, feasibility and sustainability of stakeholders identified and issues and proposed approaches to be considered. Co-design will continue into the implementation phase, with a grants process the likely mechanism to distribute funding (either through an open competitive process, direct approach or a direct tender), with an expected grant design, application, assessment, and implementation process to commence at the end of 2024.

The Agency will advise the Minister on the funding of activities, reflecting community needs and the Minister will make final decisions on specific activities to be funded under the program. The Agency will also advise the Minister on relevant requirements under the PGPA Act, the PGPA Rule and the CGRPs.

Funding under the program will primarily be administered through grant processes. The Agency will develop grant opportunity guidelines and activities in co-design with Central Australia communities and ensure the guidelines and related internal guidance are consistent with the CGRPs.

Grants are most likely to be open competitive, restricted competitive, and/or closed non-competitive funding rounds. The appropriate mechanism will be determined based on requirements and principles identified in the CGRPs, and to reflect communities' aspirations and intel identified during consultations.

Final approved grant opportunity guidelines and grants award will be published on GrantConnect ([www.grants.gov.au](http://www.grants.gov.au)).

To enable the program's delivery, any procurement to support the acquisition of goods and/or services will be completed in line with the *Commonwealth Procurement Rules* (CPRs) and the PGPA Act.

Final funding decisions on the procurement of goods and/or services will be made by the delegate of the CEO of the Agency in accordance with the Agency Financial Delegation instrument, including the PGPA Act and the FFSP Act. The delegate, at the SES level, will be required to have appropriate and relevant skills in exercising their administrative power. In addition, the delegate will also have a duty under the PGPA Act to promote the proper use of the money (i.e. the efficient, effective, economical and ethical use of the money).

It is anticipated that any procurements conducted through the program will access relevant existing panel arrangements created for use within the Commonwealth. These may include relevant whole of Australian Government coordinated procurement arrangements such as the Management Advisory Services (MAS) Panel. Where no panel arrangement is identified or where the scale and scope of the procurement warrants an alternative approach, a limited tender or open tender approach may be initiated and if the latter, published publicly via AusTender ([www.Tenders.gov.au](http://www.Tenders.gov.au)).

The Agency would, in line with the CPRs, look to publish all contract notices within 42 calendar days of entering any arrangement. Specific reference will also be made to opportunities described in the *Indigenous Procurement Policy* (IPP) which provides Indigenous Australians with more opportunities to participate in the economy.

Grant and 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. 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 ARC guide).

The review and audit process undertaken by the ANAO also 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. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

Extensive consultation on the program has been undertaken with the Central Australia community through key stakeholders, particularly the ALG. The ALG comprises representatives from across Central Australia, including Lhere Artepe Aboriginal Corporation, Central Land Council, Central Desert Regional Council, MacDonnell Regional Council, Alice Springs Town Council and Tangentyere Council, the Aboriginal Community Controlled Health Organisation (ACCHO) Central Australian Aboriginal Congress, and community groups including Strong Grandmothers Group and the chair of the Central Australia Youth Roundtable.

Through the monthly meetings of the ALG, facilitated by the Agency, the ALG identified that funding should be directed towards youth activities and community leadership activities.



Further, the Agency has consulted with the NT Government, including the Office of the Central Australian Regional Controller and the NT Department of Territory Families, Housing and Communities. Both parties support the youth and community leadership activities. The Agency has also consulted relevant Commonwealth agencies, including the Australian Public Service Commission which provided advice on shaping the community leadership activity. Consultations with community and key stakeholders for both activities will continue throughout the design, implementation and evaluation process.

Additionally, with youth central to the program, the wider Central Australia community was consulted on the needs of the youth services in the region through the Central Australia YSAP project under the Central Australia Plan measure. The YSAP team deliberately undertook consultations in Alice Springs and 25 remote Central Australia communities involving 628 young people, 120 family and community members, 33 paid local Indigenous Leads who facilitated engagements in their communities and 20 youth service providers.

Overwhelmingly, the feedback is that communities want young people to be safe, happy, healthy, proud in culture and that they were confident leaders, operating in a world safe and free from racism and discrimination. The YSAP summarises community advice from these consultations and highlights community aspirations for change at all levels of the youth services ecosystem.

### *Constitutional considerations*

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 territories power (section 122); and
- the race power (section 51(xxvi)).

#### *Territories power*

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

The program relates to activities that will be conducted in the Northern Territory.

#### *Race power*

Section 51(xxvi) of the Constitution empowers the Parliament to make laws with respect to ‘the people of any race for whom it is deemed necessary to make special laws’.

The program is delivered as part of the Central Australia Plan, which embeds the Closing the Gap targets to confer benefits on Indigenous youth. Spending activities, small scale infrastructure projects and services under the program will promote the safety and wellbeing of Indigenous youth, their families and communities. These activities are for the benefit of Indigenous people.

Table item 699 – Supporting Indigenous leaders and organisations in Central Australia

New **table item 699** establishes legislative authority for government spending on the Supporting Indigenous leaders and organisations in Central Australia program (the program).

The program also forms part of the broader \$250.0 million package for the Central Australia Plan and responds directly to the ‘improve community safety and cohesion’ category. In addition, the program has been identified by the ALG as a priority area and is critical for sustained and successful implementation across all streams of the Central Australian Plan.

The ALG has recommended supporting the next generation of leaders in a targeted, proactive and sustained way. To do this it has identified investment in community leadership in the region as a key initiative to drive sustained change and achieve self-determination. This advice reflects the ALG members’ lived experience as community leaders and members of local Indigenous organisations. Currently there are limited opportunities to enhance existing leadership capability or develop leadership skills to lead change within communities and across the region.

The program will be supported through two streams of activity.

*Stream 1*

The first stream will aim to enhance Indigenous leadership capacity among current and emerging community leaders in Central Australia, with a focus on immersive and project-based experiences and networking. It will provide immediate support to a cohort of existing leaders in the region. Programs through this stream will provide exposure to other leadership and models of change in the Aboriginal and Torres Strait Islander contexts, including group learning, masterclasses and immersive experiences. Examples of models and existing service providers that could be engaged includes the Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Lands Empowered Communities program, as well as the Social Impact Leadership Australia (SILA) program.

The SILA program is targeted at CEOs (or equivalent) of for-purpose organisations and aims to build the capacity of individuals, their organisations and the broader system. Experts work with organisations to diagnose governance and leadership needs, and the program is then tailored accordingly. Key components of the model include untied capacity funding, a tailored 3-month sabbatical for CEOs and support for a Step-Up Leader to act as CEO during that time. Support for CEOs and Step-Up Leaders could include tailored coaching, learning circles, webinars and personalised leadership assessments.

The NPY Empowered Communities program involves four workshops over 12 months, applied project work for hands-on learning, and the development of individual leadership plans. Graduates provide mentoring to successive groups and a Working Group of senior and emerging leaders gives oversight to the program.

*Stream 2*

The second stream will look to build future leadership capability within Indigenous organisations, with a focus on governance and corporate functions. This stream will involve co-designing programs, beginning with identifying community needs, community leaders and

organisations to be supported, gaps in current services and opportunities and mechanism for delivery. This stream will largely be modelled off successful leadership programs such as that provided by the SILA program, where leadership experts work with organisations to diagnose governance and leadership needs to design tailored programs that support individuals, organisations and a broader system.

Through this work, the selected provider (leadership expert) will partner with communities and the Agency to co-design and deliver a leadership program:

- for community leaders within Central Australia, to support local leadership within Alice Springs and remote communities and across the region, and foster self-determination for Indigenous people; and
- to enhance organisational leadership within Central Australia, building sustainable, thriving local organisations.

Both streams will include elements of intensive co-design with communities, key stakeholders and leadership development experts such as the NT Government, community governing bodies, Traditional Owners, Aboriginal Community Controlled Organisations and employers.

Leadership experts will be engaged through a procurement process to support the co-design process and deliver leadership programs. Delivery is planned to begin in the first quarter of 2025. The longer-term program (stream two) will be co-designed with communities in the first half of 2025. Implementation of programs, including procurement processes, will run from 2024-25 and terminate on 30 June 2028.

*Funding amount and arrangements, merits review and consultation*

Funding of \$10.0 million over four years from 2024-25 for the program will be included in the 2024-25 Mid-Year Economic and Fiscal Outlook and the Portfolio Additional Estimates Statements for the Prime Minister and Cabinet Portfolio (National Indigenous Australians Agency). Funding will come from Program 1.3: Safety and Wellbeing, Program 1.4: Culture and Capability and Program 1.7: Departmental, which are part of Outcome 1.

Funding for the program will be primarily delivered through procurement processes. The services to be procured include leadership program delivery services, organisational governance diagnostic services and leadership program co-design services.

To enable the delivery of this measure, any procurement to support the acquisition of goods and/or services will be completed in line with the CPRs and the PGPA Act.

Final funding decisions on the procurement of goods and/or services will be made by the delegate of the CEO of the Agency in accordance with the Agency Financial Delegation instrument, including the PGPA Act and the FFSP Act. The delegate, at the SES level will be required to have appropriate and relevant skills in exercising their administrative power. In addition, the delegate will also have a duty under the PGPA Act to promote the proper use of the money (i.e. the efficient, effective, economical and ethical use of the money).

It is anticipated that any procurements conducted through the program will access relevant existing panel arrangements created for use within the Commonwealth. These may include relevant Whole of Australian Government coordinated procurement arrangements such as the

MAS Panel. Where no panel arrangement is identified or where the scale and scope of the procurement warrants an alternative approach, a limited tender or open tender approach may be initiated and if the latter, published publicly via AusTender ([www.Tenders.gov.au](http://www.Tenders.gov.au)).

The Agency would, in line with the CPRs, look to publish all contract notices within 42 calendar days of entering any arrangement. Specific reference will also be made to opportunities described in the IPP which provides Indigenous Australians with more opportunities to participate in the economy.

Procurement decisions made in connection with the program are not considered suitable for independent merits review, as they concern 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 ARC guide).

The review and audit process undertaken by the ANAO also 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. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

Extensive consultation on the program has been undertaken with the Central Australia community through key stakeholders, particularly the ALG. The ALG comprises representatives from across Central Australia, including Lhere Artepe Aboriginal Corporation, Central Land Council, Central Desert Regional Council, MacDonnell Regional Council, Alice Springs Town Council and Tangentyere Council, the ACCHO Central Australian Aboriginal Congress, and community groups including Strong Grandmothers Group and the chair of the Central Australia Youth Roundtable.

Through the monthly meetings of the ALG, facilitated by the Agency, the ALG identified that funding should be directed towards youth activities and community leadership activities. Additionally, the wider Central Australia community was consulted on the needs of the youth services in the region through the Central Australia YSAP project under the Central Australia Plan measure. Details of the community insights gathered through these consultations are provided in the youth activities program under table item 698.

The Agency has also consulted with the NT Government, including the Office of the Central Australian Regional Controller and the NT Department of Territory Families, Housing and Communities. Both parties were supportive of the program. Further consultation occurred with relevant Commonwealth agencies including the Australian Public Service Commission which provided advice on shaping the community leadership activity. Consultations with community and key stakeholders for both activities will continue throughout the design, implementation and evaluation process.

### Constitutional considerations

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 race power (section 51(xxvi)); and
- the territories power (section 122).

#### *Race power*

Section 51(xxvi) of the Constitution empowers the Parliament to make laws with respect to ‘the people of any race for whom it is deemed necessary to make special laws’.

The funding would enable the delivery of various activities to enhance Indigenous leadership capacity among current and emerging community leaders in Central Australia and build future leadership capability within Indigenous organisations, with a focus on governance and corporate functions. These activities are for the benefit of Indigenous people.

#### *Territories power*

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

The program, being support for Indigenous leaders and organisations in Central Australia, will be delivered in the Northern Territory.

#### *Table item 700 – Remote Jobs and Economic Development Program—job creation*

New **table item 700** establishes legislative authority for government spending on the Remote Jobs and Economic Development (RJED) Program—job creation.

The RJED Program is part of the Government’s 2022 election commitment to replace the Community Development Program (CDP), with a new program with real jobs, proper wages and decent conditions, developed in partnership with First Nations people. The Government’s election commitment to First Nations peoples is available at <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library/partypol/8638543%22>.

The CDP commenced in 2015 to help jobseekers living in remote Australia, prepare for work through offering a pathway to learn and develop new skills, or build upon existing skills, to increase their experience and work-readiness through flexible work-like activities and placements in real work settings. The CDP is a pre-employment service operating in thin labour markets in remote Australia where there is an insufficient supply of jobs to meet demand, which is an ongoing problem.

The CDP is being replaced because in most cases, it has not been able to overcome the high rates of unemployment and welfare reliance in remote Australian communities. This is because employment services cannot singlehandedly resolve thin labour market conditions. With no changes to thin remote labour markets not everyone who would like a job is able to access one and instead must continue to rely on income support. An insufficient supply of jobs to meet demand is an ongoing problem in remote areas. Thin labour markets are unlikely to naturally resolve themselves without significant government intervention.

The RJED Program was announced by the Prime Minister, the Hon Anthony Albanese MP, on 13 February 2024 as part of the Closing the Gap Implementation Plan. Details of the announcement are available at: <https://www.pm.gov.au/media/closing-the-gap-parliament-house-2024>.

The objective of the RJED Program is to support eligible people to move off income support and into paid employment. Eligible people include remote employment services participants; job seekers eligible for remote employment services; people aged 15-24 and located in remote employment services regions; and participants in the New Jobs Program Trial or CDP Trials, and able to meet the required qualifications to support their placement in a job.

The design of the RJED Program has incorporated feedback through stakeholder and community consultations undertaken in 2023 and 2024, advice from the First Nations Reference Group and learnings and evidence from the New Jobs Program Trial, CDP trials and other relevant employment based programs delivered by the Commonwealth.

The RJED Program provides \$707 million in funding over five years from 2023-24 for two elements:

- job creation component – the creation of 3,000 jobs, with proper wages, leave entitlements and superannuation in remote employment services regions; and
- a Community Jobs and Business Fund (CJBF) component – for capital, equipment, employee support and capacity building services for eligible organisations to complement wages for the 3,000 jobs so those employed in a job funded under the RJED Program have the resources needed to do their job.

Legislative authority under table item 700 will support expenditure under the job creation component only.

The job creation component of the RJED Program is designed to fund the creation of jobs in remote Australia, by making available grants to eligible organisations for the purposes of employing a person who is currently unemployed and a Remote Employment Services (RES) participant. The grants will cover employee wages, other salary expenses and/or allowances, superannuation, and leave entitlements. The job creation component is complimented by the CJBF component, which will fund eligible organisations to absorb the additional costs required to employ local people into jobs prioritised by communities and ensure those employed in a job funded under the RJED Program have the resources needed to do their job.

The RJED Program will commence in the fourth quarter of 2024 and fund eligible organisations to create jobs and deliver programs and services that align with community priorities, that communities want. The RJED Program will focus on jobs that are valued by communities, but are not currently funded and do not currently have a commercial base. Participants will be paid wages at the relevant entry level award wage rate or the National Minimum Wage rate (where applicable).

Organisations eligible for funding under the RJED Program must be operating or intend to operate in a RES region, amongst other things, and be one of the following entity types:

- an Aboriginal and/or Torres Strait Islander Corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*;
- a company incorporated in Australia under the *Corporations Act 2001*;

- an incorporated trustee on behalf of a trust;
- an incorporated association or an incorporated cooperative (incorporated under state/territory legislation, commonly have 'Association' or 'Incorporated' or 'Inc' in their legal name);
- a partnership;
- a joint venture (consortia) application with a lead organisation that satisfies the entity type;
- a registered charity or not-for-profit organisation;
- an Australian local government body, including Regional Councils and Local Aboriginal Councils;
- a Corporate Commonwealth entity or Commonwealth Company established under the Prime Minister and Cabinet Portfolio, which can demonstrate strong alignment with RJED objectives and engages in place-based service delivery in an RES region(s); and
- an individual or sole trader seeking to employ another individual (i.e. the individual may not apply for a job for themselves).

The RJED Program will provide greater flexibility to communities to determine local programs and services that support economic development in their community or region. The intended outcomes of the RJED Program are:

- 3,000 jobs successfully taken up in RES regions;
- delivering more services in RES regions;
- creating more jobs offering fair pay and conditions;
- improving employment and engagement outcomes for RJED Program employees and communities;
- increasing socio-economic and wellbeing outcomes through the take up of more jobs offering fair pay and conditions for RJED Program employees, their families and communities;
- increasing the number of formal employment relationships and flow-on effects of direct jobs in community and local business sectors, who will become 'employers of choice' for local job seekers; and
- to the extent that RJED Program jobs are filled by First Nations people, contributing to the Closing the Gap Priority Reforms and targets.

To the extent that it creates new jobs for First Nations people, the RJED Program supports Closing the Gap *Target 7*: increasing the portion of Aboriginal and Torres Strait Islander youth (15 to 24 years) who are in employment, education or training to 67 per cent; *Target 8*: increasing the portion of Aboriginal and Torres Strait Islander people aged 25 to 64 who are employed to 62 per cent; *Priority Reform 1*: Formal Partnerships and shared decision making; *Priority Reform 2*: Building the community controlled sector; *Priority Reform 3*: Transforming the Community Controlled Sector; and *Priority Reform 4*: Shared Access to Data and Information at a Regional Level.

*Funding amount and arrangements, merits review and consultation*

Funding of \$536.1 million for the job creation component of the RJED Program was included in the 2024-25 Budget under the measure 'Remote Jobs and Economic Development Program' for a period of five years commencing in 2023-24. Details are set out in *Budget 2024-25, Budget Measures, Budget Paper No. 2* at pages 162-163.

Funding for this item will come from Program 1.1: Jobs, Land and the Economy, which is part of Outcome 1. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.13, Prime Minister and Cabinet Portfolio* (National Indigenous Australians Agency) at page 204.

Funding will be provided to eligible organisations through open competitive grants. The grants are administered in accordance with the Commonwealth resource management framework, including the PGPA Act, the PGPA Rule and the CGRPs. The Agency will develop grant opportunity guidelines and will have regard to the nine key principles in administering the grant.

Information about the grant opportunity will be available on the GrantConnect website ([www.grants.gov.au](http://www.grants.gov.au)). The grants will be administered by the Agency. A delegate at the SES Band 1 or above level of the Agency, will be responsible for approving Commonwealth funding provided to grant recipients under the RJED Program. The relevant delegate will have experience in program management responsibility to ensure the proper administration of the RJED Program.

Officials within the Agency will be responsible for administering the assessment and selection process. A panel of the Agency staff will assess each application before recommending them to the delegate, to determine which grant applications should be awarded a grant.

The recommendation will be based on the merits of the application including consideration of the assessment, risk and value with relevant money; priority areas of need; how a proposal compares to other proposals and availability of funding.

The Agency will fund wages at the award wage rate (entry level) or the National Minimum Wage, and superannuation, leave entitlements and other limited associated costs. Information about the successful grant recipients will be made publicly available, including on the GrantConnect website.

Merits review of decisions made in connection with the grant opportunity for the RJED Program are not considered appropriate for merits review because these decisions relate to the provision of a one-off grant to certain service providers, 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 4.17 of the ARC guide).

The review and audit process undertaken by the ANAO also 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. Individual persons affected by grant decisions also have recourse to the Commonwealth Ombudsman where appropriate.



Consultation on the new program coming to remote Australia has been occurring with local communities since August 2022 with a Roundtable led by the then Minister for Indigenous Australians, the Hon Linda Burney, ahead of the National Jobs and Skills Summit.

In the first half of 2023, the Agency conducted a Phase 1 consultation process (a ‘listen and learn’ consultation), with remote communities on the Government’s commitment to replace the CDP. This provided communities and stakeholders, those most affected by the change, an opportunity to speak to the Agency directly about ways to design and deliver a program to replace CDP. During this round of consultations, feedback was received from over 2,250 people, the Agency visited over 100 remote communities and received 210 anonymous survey responses, and 50 ‘Have Your Say’ web forms from the general public.

Key messages heard in community consultations were that a new program should: be planned and led by communities; recognise roles carried out in communities; take a new approach to youth; support local jobs for local people; invest in local priorities; be flexible; and assist people unable to work right now.

Further consultation was undertaken in December 2023 with key stakeholders including peak bodies, community organisations and employment agencies. A First Nations Reference Group (FNRG) was also established and commenced meetings in March 2024 to provide advice to the Government on the detailed design and implementation of the RJED Program and on the consultation and engagement process for remote communities. Members of the FNRG include economic development experts from across remote Australia and representatives from a range of First Nations organisations.

A second round of community consultations was conducted from April to July 2024 to check back with communities on the feedback heard in the first phase and to test design principles of the RJED Program. During this consultation process we heard from 3,100 people, engaged with around 200 remote communities, held eight national and regional roundtables, received over 80 survey and submission responses, and consulted across government and with other stakeholders. A discussion paper was developed on the proposed design of the RJED Program, which was supported by an online survey where stakeholders could provide submissions in response to the discussion paper. In early July 2024, a draft of the grant opportunity guidelines was made publicly available on the Agency website.

### *Constitutional considerations*

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 social welfare power (section 51(xxiiiA)); and
- the external affairs power (section 51(xxix)).

### *Social welfare power*

The social welfare power in section 51(xxiiiA) of the Constitution empowers the Parliament to make laws with respect to the provision of certain social welfare benefits, including unemployment benefits.

Grants made under the program’s job creation component will facilitate the provision of material aid to identified or identifiable persons who are unemployed.

*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 obligations relating to the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and the International Labour Organization's *Convention concerning Employment Policy* (ILO Convention 122).

Article 2(1) of the ICESCR provides that the States Parties shall take steps to realise the rights recognised in the ICESCR. Article 6 of the ICESCR obliges States Parties to take steps to achieve the full realisation of the right to work that include ‘technical and vocational guidance and training programmes, policies and techniques to achieve ... full and productive employment.’

Article 1 of ILO Convention 122 requires each Member to ‘declare and pursue, as a major goal, an active policy designed to promote full and freely chosen employment’ and further provides that the policy shall, among other objectives, ‘aim at ensuring there is work for all who are available for and seeking work.’ Article 2 requires each Member to ‘take such steps as may be needed, including where appropriate the establishment of programmes’ to achieve the objectives specified in Article 1.

In creating and sustaining jobs and employment in remote Australia, the program’s job creation component aims to promote:

- full and productive employment in regions where unemployment is high; and
- full and freely chosen employment in those regions.

## **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 (Prime Minister and Cabinet's Portfolio Measures No. 4) Regulations 2024***

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 FFSP Act) authorises the Commonwealth to make, vary and administer arrangements and grants specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (the Principal 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 Principal Regulations specify the arrangements, grants and programs. The powers in the FFSP 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 (Prime Minister and Cabinet's Portfolio Measures No. 4) Regulations 2024* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on activities to be administered by the National Indigenous Australians Agency, within the Prime Minister and Cabinet Portfolio.

This disallowable legislative instrument makes the following amendments to Part 4 of Schedule 1AB:

- amends table item 35 'Indigenous Advancement—Jobs, Land and Economy';
- amends table item 36 'Indigenous Advancement—Children and Schooling';
- amends table item 37 'Indigenous Advancement—Safety and Wellbeing';
- amends table item 38 'Indigenous Advancement—Culture and Capability';
- amends table item 39 'Indigenous Advancement—Remote Australia Strategies';
- adds table item 698 'Supporting youth in Central Australia';
- adds table item 699 'Supporting Indigenous leaders and organisations in Central Australia'; and
- adds table item 700 'Remote Jobs and Economic Development Program—job creation'.

#### ***Amended table item 35 – Indigenous Advancement—Jobs, Land and Economy***

The amended table item 35 establishes legislative authority for government spending on the Indigenous Advancement—Jobs, Land and Economy (Jobs, Land and Economy program).

The Jobs, Land and Economy program supports Aboriginal and Torres Strait Islander Australians to overcome barriers to employment and economic participation. It does this by connecting Aboriginal and Torres Strait Islander peoples with sustainable jobs, and ensuring remote job seekers participate in activities that provide both work-readiness experience and that contribute to the broader community.

Another key support element is fostering Indigenous business and assisting Aboriginal and Torres Strait Islander peoples to generate economic and social benefits from natural and cultural assets, through the effective management of Indigenous-owned land and seas and by supporting Aboriginal and Torres Strait Islander peoples to have their native title rights recognised.

Existing funding of \$4,312.9 million over four years from 2024-25 is available for the Jobs, Land and Economy program.

### **Human rights implications**

The amended table item 35 engages the following rights:

- the right to work – Article 6 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), read with Article 2; and
- the right to self-determination – Article 1 of the *International Covenant on Civil and Political Rights* (ICCPR), read with Article 2, Article 1 of the ICESCR and Article 3 of the *United Nations Declaration on the Rights of Indigenous People* (UNDRIP).

#### Right to work

Article 2(1) of the ICESCR requires that each State Party take steps, especially economic and technical, to the maximum of its available resources, with a view to progressively achieving the full realisation of the rights in the ICESCR, including particularly the adoption of legislative measures.

Article 6(1) of the ICESCR recognises the right of everyone to work, including the opportunity to make a living by work which they freely choose or accept. Article 6(2) of the ICESCR recognises that the realisation of this right by States includes implementing policies which facilitate full and productive employment.

The amended table item 35 positively supports the right to work by supporting organisations to provide activities, assistance, infrastructure, research and services that promote jobs and economic opportunities for Aboriginal and Torres Strait Islander peoples. The funding assists the organisations to help Indigenous people to overcome barriers to employment and economic participation by preparing and connecting Indigenous people with jobs. Investment in this program will promote the right to work by:

- providing sustainable pathways to employment for Indigenous people, increasing employment rates;
- targeting remote locations that have historical high unemployment rates to support remote job seekers' work readiness;
- fostering Indigenous Business to provide culturally appropriate services that maximise employment opportunities and economic outcomes for Indigenous people;
- assisting Indigenous peoples to generate economic and social benefit from natural and cultural assets; and

- funding initiative that confer a benefit on Indigenous people and communities in relation to their employment and economic development.

### Right to self-determination

Article 1 of the ICCPR recognises that all peoples have the right of self-determination. By virtue of that right they freely pursue their economic, social and cultural development. Article 1 of the ICCPR requires States Parties to promote the realisation of the right of self-determination, and respect that right.

Article 2 of the ICCPR requires States Parties to respect and to ensure to all individuals subject to its jurisdiction the rights recognised in the ICCPR, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 1 of the ICESCR recognises the right of all peoples to self-determination and to freely determine their political status and freely pursue their economic, social and cultural development.

Article 3 of the UNDRIP states that ‘Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.’

The amended table item 35 promotes the right to self-determination by investing in Indigenous people and businesses to generate economic and social development in communities. Delivering employment opportunities to Indigenous people provides them with the resources and agency over economic and social development. The funding also assists Indigenous people and communities to derive economic and social benefits from the use of land and sea.

The amended table item 35 is compatible with human rights as the objectives of the program are directly and fundamentally related to improving outcomes for Aboriginal and Torres Strait Islander peoples.

### Amended table item 36 – Indigenous Advancement—Children and Schooling

The amended table item 36 establishes legislative authority for government spending on the Indigenous Advancement—Children and Schooling (Children and Schooling program).

The Children and Schooling program’s critical focus is on ensuring the healthy development of Aboriginal and Torres Strait Islander children in their earliest years, increased school attendance and improved educational outcomes that lead to employment. The program seeks to achieve this through activities that nurture and educate Aboriginal and Torres Strait Islander children, youth and adults to improve pathways to prosperity and wellbeing.

This includes support for children and young people to be engaged in their education and to transition into higher education, training, employment or positive pathways; and improving family and parenting support. This also includes consideration of the specific needs for Aboriginal and Torres Strait Islander females and males in achieving improved educational outcomes for students.

Existing funding of \$1,137.7 million over four years from 2024-25 is available for the Children and Schooling program.

### **Human rights implications**

The amended table item 36 engages the following rights:

- the right of the child and the right to education – Articles 28 and 29 of the *Convention on the Rights of the Child* (CRC), read with Article 4, and Article 13 of the ICESCR, read with Article 2;
- the right to health and wellbeing – Article 12 of the ICESCR; and
- the right to self-determination – Article 1 of the ICCPR, read with Article 2, Article 1 of the ICESCR and Article 3 of the UNDRIP.

#### *Right of the child and the right to education*

Article 4 of the CRC requires States Parties to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the CRC. These rights include ‘the right of the child to education’ (Article 28).

Article 29 of the CRC provides that ‘States Parties agree that the education of the child shall be directed to... the development of the child’s personality, talents and mental and physical abilities to their fullest potential’ (Article 29(1)(a)), and ‘the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin (Article 29(1)(d)).

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

Article 13 of the ICESCR provides that States Parties to the ICESCR recognise the right of everyone to education and agree that education ‘shall be directed to the full development of the human personality and the sense of dignity and shall strengthen the respect for human rights and fundamental freedoms’ (Article 13(1)). Article 13(2) of ICESCR relates to the right of everyone to primary education that is compulsory and free and to secondary education that is generally available and accessible to all.

The amended table item 36 supports the rights of the child to education as the amendment will provide funding to organisations to provide activities that promote the healthy development, increased school attendance and engagement, and improved education and employment outcomes for Indigenous children. In particular, the funding will be used by the organisations to increase access and opportunities for Indigenous children and youth to:

- free primary education (Article 28(1)(a));
- different forms of secondary education and assistance accessing these opportunities (Article 28(1)(b));
- higher education (Article 28(c)); and
- regularly attend school (Article 28(e)).

The amended table item 36 is directed at core education activities that are central to the development of children’s mental and physical abilities by funding activities that nurture and educate Aboriginal and Torres Strait Islander children, youth and adults to improve pathways to prosperity and wellbeing.

*Right to health and wellbeing*

Article 12 of the ICESCR recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, calling on States to ensure the provision of necessary medical services to address the underlying determinants of health, and in particular, ensure the healthy development of a child (Article 12(2)(a)).

The amended table item 36 priorities include delivering activities that are suitable and adapted to supporting the positive and healthy development of children, including by funding outside classroom activities to improve health, cognition and physical development of children. This includes promoting early intervention strategies that increase Aboriginal and Torres Strait Islander parents and families confidence and participation in their children’s development from the earliest possible stages.

*Right to self-determination*

Article 1 of the ICCPR and ICESCR recognise that all peoples have the right of self-determination. By virtue of that right they freely pursue their economic, social and cultural development. Article 1 of the ICCPR requires States Parties to promote the realisation of the right of self-determination, and respect that right.

Article 2 of the ICCPR requires States Parties to respect and to ensure to all individuals subject to its jurisdiction the rights recognised in the ICCPR, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 3 of the UNDRIP states that ‘Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.’

The amended table item 36 promotes the right to self-determination by delivering activities aimed at reducing the barrier to First Nation children participating in education and improved personal development. Funding activities that increase the confidence of Indigenous parents and families to participate in their children’s development is embedded in the idea of self-determination as it provides the resources for Indigenous people to freely pursue their social development.

The amended table item 36 is compatible with human rights because it promotes the protection of human rights.

*Amended table item 37 – Indigenous Advancement—Safety and Wellbeing*

The amended table item 37 establishes legislative authority for government spending on the Indigenous Advancement—Safety and Wellbeing (Safety and Wellbeing program).

The Safety and Wellbeing program is about making communities safer for Aboriginal and Torres Strait Islander peoples, and enabling them to enjoy similar levels of physical, emotional and social wellbeing as those enjoyed by other Australians. Safe communities are places where people thrive and are able to go about their daily activities without fear of violence.

They are places where people not only feel safe, but are safe because they are strong, cohesive and vibrant. Feeling well and having a safe community to live in are critical to closing the gap in Indigenous disadvantage. It makes other important things possible, like ensuring children have the best start in life, getting kids to school, helping them achieve good results, and getting adults into jobs.

The Safety and Wellbeing program also aim to reduce the rates of crime, violence and substance abuse to build healthier, safer and more resilient communities; and make sure Australian laws are followed in all communities across the country.

Existing funding of \$1,657.8 million over four years from 2024-25 is available for the Safety and Wellbeing program.

### **Human rights implications**

The amended table item 37 engages the following rights:

- the right to health and wellbeing – Articles 11 and 12 of the ICESCR, read with Article 2 and Article 25 of the *Universal Declaration of Human Rights* (UDHR);
- the right to self-determination – Article 1 of the ICCPR, read with Article 2, Article 1 of the ICESCR and Article 3 of the UNDRIP; and
- the right to cultural participation – Article 27 of the ICCPR and Article 15 of the ICESCR.

#### *Right to health and wellbeing*

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

Article 11 of the ICESCR recognises the right of everyone to an adequate standard of living, including adequate food clothing and housing, and to the continuous improvement of living conditions, and encourages States Parties to take appropriate step to ensure the realisation of this right.

Article 12 of the ICESCR recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, calling on States to ensure the provision of necessary medical services to address the underlying determinants of health.

Article 25 of the UDHR recognises everyone's right to a standard of living adequate for the health and well-being of oneself and one's family, including food, clothing, housing and medical care and necessary social services.



The amended table item 37 provides funding to organisations to deliver services, activities, infrastructure and research that is directed at enabling Indigenous people to enjoy similar levels of physical, emotional and social wellbeing and safety as those enjoyed by other Australians. The program addresses violence and harmful levels of alcohol and substance use to promote safer communities and an improvement in living conditions.

### Right to self-determination

Article 1 of the ICCPR and ICESCR recognise that all peoples have the right of self-determination. By virtue of that right they freely pursue their economic, social and cultural development. Article 1 of the ICCPR requires States Parties to promote the realisation of the right of self-determination, and respect that right.

Article 2 of the ICCPR requires States Parties to respect and to ensure to all individuals subject to its jurisdiction the rights recognised in the ICCPR, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 3 of the UNDRIP states that ‘Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.’

The amended table item 37 promotes the right to self-determination by delivering activities that support the particular and specific experiences of Aboriginal and Torres Strait Islander people. Organisations funded by the program deliver early-intervention services to support vulnerable families to address risk factors and build protective factors that prevent contact with the child protection system. The program funds initiatives that are community priorities, and that consequently increase levels of community safety and individual wellbeing.

### Right to cultural participation

Article 27 of the ICCPR recognises the right of persons belonging to ethnic, religious or linguistic minorities to enjoy their own culture, profess and practice their own religion, and have their own language.

Article 15 of the ICESCR requires States Parties to recognise the right of everyone to take part in cultural life.

The amended table item 37 funds organisation to deliver services through a cultural lens that recognise the social and emotional wellbeing of an Aboriginal and Torres Strait Islander person is based on their connection to country, community, family, and culture. Activities are funded that enhance connection to family, community and culture.

The amended table item 37 is compatible with human rights because it promotes the protection of human rights.

### Amended table item 38 – Indigenous Advancement—Culture and Capability

The amended table item 38 establishes legislative authority for government spending on the Indigenous Advancement—Culture and Capability (Culture and Capability program).

The Culture and Capability program acknowledges the intrinsic value of culture to Aboriginal and Torres Strait Islander peoples identity. It contributes to Aboriginal and Torres Strait Islander peoples participating freely and fully in Australian society as equals and free from discrimination. Strong culture supports the achievement of outcomes across the IAS priority areas of schooling, economic participation and community safety.

The Culture and Capability program aims to:

- support the expression, engagement and re-vitalisation of Aboriginal and Torres Strait Islander cultures;
- increase Aboriginal and Torres Strait Islander peoples participation in the social and economic life of Australia through strengthening the capability, governance and leadership of Aboriginal and Torres Strait Islander peoples, organisations and communities; and
- promote broader understanding and acceptance of the unique place of Aboriginal and Torres Strait Islander cultures in Australian society.

Existing funding of \$232.4 million over four years from 2024-25 is available for the Culture and Capability program.

### **Human rights implications**

The amended table item 38 engages the following rights:

- the right to cultural participation – Article 27 of the ICCPR, read with Article 2 and Articles 12 and 15 of the ICESCR, read with Article 2; and
- the right to self-determination – Article 1 of the ICCPR, Article 1 of the ICESCR and Articles 2 and 3 of the UNDRIP.

#### *Right to cultural participation*

Article 2 of the ICCPR requires States Parties to respect and to ensure to all individuals subject to its jurisdiction the rights recognised in the ICCPR, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27 of the ICCPR protects the rights of minorities to enjoy their own culture, to profess and practice their own religion, and to use their own language, in community with the other members of their group.

Article 2(2) of the ICESCR requires States Parties to undertake to guarantee the right to culture be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 15(1) of the ICESCR recognises the ‘right of everyone to take part in cultural life’. Article 2 requires each State Party to ‘take steps...to the maximum of its available resources, with a view to achieving progressively the full realisation’ of this right ‘by all appropriate means, including particularly the adoption of legislative measures’.

The amended table item 38 focuses on ensuring policies and programs are culturally appropriate and promote the right to cultural participation. It promotes the right of people to preserve, develop, and engage with their cultural traditions and expressions, and supports the preservation and promotion of Aboriginal and Torres Strait Islander cultural identity.

*Right to self-determination*

Article 1 of the ICCPR and ICESCR recognise that all peoples have the right of self-determination. By virtue of that right they freely pursue their economic, social and cultural development. Article 1 of the ICCPR requires States Parties to promote the realisation of the right of self-determination, and respect that right.

Article 2 of the UNDRIP states that ‘Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination in the exercise of their rights, in particular that based on their indigenous origin or identity’.

Article 3 of the UNDRIP states that ‘Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.’

The amended table item 38 supports organisations to deliver a diverse range of activities directed at improving outcome for Indigenous Australians. The funded activities support the expression, engagement and re-vitalisation of Aboriginal and Torres Strait Islander Cultures and recognise the intrinsic value of identity, to increase participation in the social and economic life of Australia. The funding is aimed at strengthening the capability, governance and leadership of Aboriginal and Torres Strait Islander people, organisations and communities to ensure they can participate freely and fully in Australian society as equals and free from discrimination.

The amended table item 38 is compatible with human rights because it promotes the protection of human rights.

*Amended table item 39 – Indigenous Advancement—Remote Australia Strategies*

The amended table item 39 establishes legislative authority for government spending on the Indigenous Advancement—Remote Australia Strategies (Remote Australia Strategies program).

The Remote Australia Strategies program addresses the disproportionate disadvantage of Aboriginal and Torres Strait Islander peoples in remote Australia. To address the multiple dimensions of disadvantage that many remote Aboriginal and Torres Strait Islander communities face, the Government is working to refocus remote Aboriginal and Torres Strait Islander funding to create a genuine partnership between government and Aboriginal and Torres Strait Islander peoples and to tailor solutions to local circumstances.

The Remote Australia Strategies program supports the Government’s key priorities of increased participation in education and work, and ensuring safe communities. The Remote Australia Strategies program does this by providing opportunities to complement existing services, enable innovation and leverage further grant funding. It can also be used to address identified gaps in service delivery and infrastructure for remote communities.

Existing funding of \$268.3 million over four years from 2024-25 is available for the Remote Australia Strategies program.

### **Human rights implications**

The amended table item 39 engages the following rights:

- the right to work – Article 6 of the ICESCR, read with Article 2; and
- the rights of Indigenous People – Article 17 of the UNDRIP.

#### *Right to work*

Article 2 of the ICESCR requires that each State Party to the ICESCR undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the ICESCR by all appropriate means, including particularly the adoption of legislative measures. Article 6 of the ICESCR recognises the right to work.

The steps to be taken by a State Party to achieve the full realisation of this right shall include technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedom to the individual.

Funding in line with the amended table item 39 will support community-led infrastructure and service projects with the aim of creating increased and ongoing employment, and broader economic development benefits to the communities. Targeting remote Australia will promote the right to work in locations that have historical high unemployment rates and a high proportion of people in receipt of working age social security payments.

#### *Rights of Indigenous People*

Article 17(3) of the UNDRIP states that ‘Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

The amended table item 39 funds organisations to deliver services in remote Australia which work to overcome the geographical and social disadvantages entrenched in living in remote locations. The program supports Indigenous people to enter into jobs that are fair and consistent with employment elsewhere in Australia.

The amended table item 38 is compatible with human rights because it promotes the protection of human rights.

*Table item 698 – Supporting youth in Central Australia*

New table item 698 establishes legislative authority for government spending on the Supporting youth in Central Australia program (the program).

The program forms part of the Government’s broader package of support for *A better, safer future for Central Australia*. The Aboriginal Leadership Group and the wider Central Australia community has identified a need for the Government to further support youth development in Central Australia. This includes embedding Closing the Gap Targets that support young people through improving their safety and wellbeing, their opportunities to contribute to the economic and social development of their communities and helping them be strong in culture.

Funding of \$24.1 million over four years from 2024-25 will be provided to support small scale infrastructure projects and services to promote the safety and wellbeing of Indigenous youth, their families and communities, and support young people’s positive development. Activities will focus on three priority areas:

- family and community: strengthening governance and community leadership of youth services;
- youth services: expanding the variety of services available across communities and addressing the needs of under-serviced groups; and
- broader system services: improve coordination with other services.

### **Human rights implications**

Table item 698 engages the following rights:

- the right to self-determination – Article 1 of ICCPR, read with Article 2, Article 1 of the ICESCR, read with Article 2 and Article 3 of the UNDRIP); and
- the right of the child – Article 3 of the CRC, read with Article 4 and Article 10 of the ICESCR.

#### Right to self-determination

Article 1 of the ICCPR and the ICESCR recognises all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. Article 1 of the ICCPR requires that each State Party to the Covenant undertakes steps to promote the realisation of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations. This right will be promoted as the youth activities under the program will involve co-design with the Central Australia community.

Article 2 of the ICCPR states that each State Party to the Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

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

Article 3 of the UNDRIP states that ‘Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.’

The program promotes the right to self-determination by delivering funding to projects and services that promote the wholistic safety and wellbeing of Indigenous youth, families and communities that ultimately support young people’s positive development. These initiatives are aimed at providing Indigenous youth with the long-term tools, education and resources that open up opportunities for self-led economic and social development.

*Right of the child*

Article 3 of the CRC promotes the best interests of the child, with signatories to promote their survival, growth, and wellbeing, as well as measures to support and assist parents and others who have day-to-day responsibility for ensuring recognition of children's rights. Article 10 of the ICESCR guarantees the widest possible protection and assistance to the family.

Article 4 of the CRC requires States Parties to ‘undertake all appropriate legislative, administrative, and other measures for the implementation of the rights in the CRC.’

Activities under this program will support the safety and wellbeing of young people in Central Australia, with an emphasis on youth living in regional and remote areas. Funding may include funding additional locally recruited youth workers, life skills programs such as cooking nutritious food, using technology and building entrepreneurial skills, upgrading recreation halls to enable more spaces and activities that cater for different ages and genders, or supporting Aboriginal Community Controlled Organisations to run culturally appropriate youth-related activities.

Table item 698 is compatible with human rights because it promotes the protection of human rights.

*Table item 699 – Supporting Indigenous leaders and organisations in Central Australia*

New table item 699 establishes legislative authority for government spending on the Supporting Indigenous leaders and organisations in Central Australia program (the program).

The program also forms part of the Government’s broader package of support for *A better, safer future for Central Australia*.

Funding of \$10.0 million over four years from 2024-25 will be provided to support two streams of activity.

Stream 1 will aim to enhance Indigenous leadership capacity among current and emerging community leaders in Central Australia, with a focus on immersive and project-based experiences and networking. It will provide immediate support to a cohort of existing leaders in the region. Programs through this stream will provide exposure to other leadership and models of change in the Aboriginal and Torres Strait Islander contexts, including group learning, masterclasses and immersive experiences.

Stream 2 will look to build future leadership capability within Indigenous organisations, with a focus on governance and corporate functions. This stream will involve co-designing programs, beginning with identifying community needs, community leaders and organisations to be supported, gaps in current services and opportunities and mechanism for delivery.

### **Human rights implications**

Table item 699 engages the following right:

- the right to self-determination – Article 1 of the ICCPR, read with Article 2, Article 1 of the ICESCR, read with Article 2 and Article 3 of the UNDRIP.

#### *Right to self-determination*

Article 1 of the ICCPR and the ICESCR recognises all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. Article 1 of the ICCPR requires that each State Party to the Covenant undertakes steps to promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

Article 2 of the ICCPR states that each State Party to the Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

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

Article 3 of the UNDRIP states that ‘Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.’

This right will be promoted as the program activity will involve co-design with the Central Australia community. This activity specifically will promote the right to self-determination by providing capability development opportunities to support community leaders to support community-led decision making. The program will help ensure leadership succession, strengthen cultural and mainstream leadership capacity and develop practical leadership skills across the Central Australia region. Employees of Aboriginal organisations will benefit from personal professional development, while organisations will benefit from improved governance, integrity and development of a leadership pipeline. Support will be tailored to the needs and maturity of the organisations involved.

Table item 699 is compatible with human rights because it promotes the protection of human rights.

Table item 700 – Remote Jobs and Economic Development Program—job creation

New table item 700 establishes legislative authority for government spending on the Remote Jobs and Economic Development (RJED) Program—job creation to provide funding for the creation of jobs in remote Australia by funding eligible employers to subsidise the wages and employee entitlements of eligible persons whom they employ.

The RJED Program is part of the Government’s 2022 election commitment to replace the Community Development Program (CDP), with a new program with real jobs, proper wages and decent conditions, developed in partnership with First Nations people.

Eligible people include remote employment services participants; job seekers eligible for remote employment services; people aged 15-24 and located in remote employment services regions; and participants in the New Jobs Program Trial or CDP Trials, and able to meet the required qualifications to support their placement in a job.

The RJED Program provides \$707 million in funding over five years from 2023-24 for two elements:

- job creation component – the creation of 3,000 jobs, with proper wages, leave entitlements and superannuation in remote employment services regions; and
- a Community Jobs and Business Fund (CJBF) component – for capital, equipment, employee support and capacity building services for eligible organisations to complement wages for the 3,000 jobs so those employed in a job funded under the Program have the resources needed to do their job.

Legislative authority under table item 700 will support expenditure under the job creation component only.

### **Human rights implications**

Table item 700 engages the following rights:

- the right to work and rights at work – Articles 6 and 7 of the ICESCR, read with Article 2 and Article 1 of the *International Labour Organization’s Convention concerning Employment Policy* (ILO Convention 122);
- the rights of equality and non-discrimination – Article 2 of the ICESCR, Articles 3, 16 and 26 of the ICCPR, read with Article 2, Article 5 of the *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD), read with Article 2 and Article 5 of the *Convention on the Rights of Persons with Disabilities* (CRPD), read with Article 4; and
- the rights of Indigenous Peoples – Article 17 of the UNDRIP.

#### Right to work and rights at work

Article 2(1) of the ICESCR requires that each State Party to the Covenant take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognised in the Covenant by all appropriate means, including particularly the adoption of legislative measures.



Article 6(1) of the ICESCR recognises the right of everyone to work, including the opportunity to gain their living by work which they freely choose or accept. Article 6(2) of the ICESCR further provides that the progressive realisation of this right by States includes implementing policies which facilitate full and productive employment. Article 1 of the ILO Convention 122 provides that ‘each Member shall declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment’.

The RJED Program positively engages with the right to work by incentivising the provision of jobs for job seekers in remote Australia, with a view to their future engagement in paid work in the open labour market where possible.

Article 7 of the ICESCR recognises the right of everyone to just, favourable and safe conditions of work, including fair wages, equal pay and conditions for women and men and periodic paid holidays.

The RJED Program positively engages with these rights by creating opportunities for remote job seekers to enjoy employment in jobs paid at the entry level award wage or the minimum wage with conditions including paid leave, superannuation entitlements and other conditions of work under Australian employment law.

#### Rights of equality and non-discrimination

Article 2(1) of the ICESCR requires that each State Party to the Covenant take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognised in the Covenant by all appropriate means, including particularly the adoption of legislative measures.

Article 2(1) of the ICCPR requires that each State Party to the Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 2(2) of the ICCPR requires, where not already provided for by existing legislative or other measures, each State Party to the Covenant undertakes to take the necessary steps to adopt such laws or other measures as may be necessary to give effect to the rights recognised in the Covenant.

Article 3 of the ICCPR ensures the equal right of men and women to the enjoyment of all civil and political rights.

Article 16 of the ICCPR stipulates that everyone shall have the right to recognition everywhere as a person before the law.

Article 26 of the ICCPR provides that all persons are equal before the law and entitled to equal protection of the law without discrimination. It requires the law to prohibit any discrimination and guarantee all persons equal and effective protection against discrimination on any ground.

Article 2(1)(c) of the CERD requires each State Party to the Convention to take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.

Article 5 of the CERD requires States Parties to prohibit and eliminate all racial discrimination in all forms and guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, in the enjoyment of rights. Article 5(d)(i) includes the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, and to just and favourable remuneration.

Article 4(1)(a) of the CRPD requires each State Party to the Convention to adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the Convention.

Article 5 of the CRPD requires States Parties to recognise all persons as equal under the law and entitled without discrimination to the equal protection and equal benefit of the law. Article 5(2) specifically prohibits all discrimination on the basis of disability and guarantees persons with disabilities equal and effective legal protection against discrimination. Article 5(3) requires States Parties to make reasonable accommodation to promote equality and eliminate discrimination and Article 5(4) provides that measures that are necessary to accelerate equality of persons without disabilities are not considered discrimination under the CRPD.

The rights of equality and non-discrimination are contained in the above Articles of the ICCPR, ICESCR, CERD and CRPD. These rights recognise that all human beings have the right to be treated equally and to not be discriminated against.

The RJED Program positively engages with the rights of equality and non-discrimination by providing opportunities for remote job seekers to enjoy employment. The application of the RJED in remote Australia is intended to address the inherent lack of employment opportunities and consequential disadvantage experienced in parts of remote Australia and elevate the situation of remote job seekers to a standard comparable to those living in non-remote regions.

### *Rights of Indigenous peoples*

The UNDRIP contains provisions relevant to the right of Indigenous peoples to work and rights in work and informs the way governments engage with and protect the rights of Indigenous peoples.

Article 17 of the UNDRIP recognises Indigenous peoples right to enjoy fully all rights established under applicable international and domestic labour law and to not be subject to any discriminatory conditions of labour, employment or salary.

The RJED Program positively engages with the UNDRIP by providing opportunities for Indigenous people to enjoy employment in jobs paid at the entry level award wage or minimum wage with conditions including paid leave, superannuation entitlements and other conditions of work under Australian employment law.

Table item 700 is compatible with human rights because it promotes the protection of human rights.

**Conclusion**

This disallowable legislative instrument is compatible with human rights because it promotes the protection of human rights.

**Senator the Hon Katy Gallagher  
Minister for Finance**