

EXPLANATORY STATEMENT

Appropriation Act (No. 2) 2021-2022

AFM Determination (No. 3 of 2021-2022)

Purpose of this Determination

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

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

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

In relation to the present determination (*AFM Determination (No. 3 of 2021-2022)*), the Finance Minister is satisfied that there is an urgent need for the expenditure for the reason in s 12(1)(b).

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

Additional funding is provided to Finance to support decisions by the Australian Government to construct Centres for National Resilience (CNRs) at Mickleham in Victoria, Pinkenba in Queensland and Bullsbrook in Western Australia. The CNRs are urgently required to provide dedicated additional quarantine capacity to manage higher-risk cohorts of international travellers arriving during the COVID-19 pandemic, as Australia reopens to international travel. The CNRs are also intended to provide future contingency, including for natural disasters, health crises, or humanitarian situations.

This AFM is required to support the Commonwealth's commitments to construct the respective CNRs and hand them over to State Government operators, as agreed in separate Memorandums of Understanding with the Governments of Victoria (4 June 2021), Queensland (16 August 2021) and Western Australia (16 August 2021). Due to the timing of these commitments, the additional expenditure was unforeseen until after the last day on which it was practicable to provide for it in the Bill, before it was introduced into the House of Representatives on 11 May 2021.

Under its contractual arrangements the Commonwealth is obliged to reimburse the managing contractor (Multiplex) and other suppliers largely on a monthly basis, reflecting liabilities incurred in preceding periods. Multiple cost components are subject to ongoing procurement activities and approaches to market. This AFM mainly relates to expenses accrued for the months of November and December 2021 (including forward provision of funding for anticipated liabilities in the latter part of December 2021). By covering two months of costs, this AFM ensures continuity of financing to meet liabilities as they fall due and supports ongoing project work across the Christmas and New Year periods.

This AFM supports funding for construction works at the CNR Melbourne and early-stage costs for the CNR Perth and the CNR Brisbane. The Commonwealth continues to actively procure in the market for future stages of works, so in the interests of continuing to ensure value for money, this Explanatory Statement does not disaggregate the value of project costs by the type of cost component. To ensure an appropriate level of transparency, the broad heads of costs are summarised below.

- Trade packages have been awarded by managing contractor Multiplex for the CNR Melbourne related to bulk earthworks, landscaping and civil works. Site infrastructure activities include electrical, mechanical, hydraulics, sewerage and waste packages. Other

activities include construction of central buildings and facilities to support the Centre and manufacturing of modular accommodation units and delivery to site.

- This AFM includes design and management costs for the CNR Perth and the CNR Brisbane. It also includes activities by Multiplex on bulk earthworks, civils, landscaping and costs for accommodation modules for both locations.

Consequently, the Finance Minister is able to make a determination under s 12(2) of the Act. The result of the determination is that Schedule 2 of the Act will have effect as if it were amended as specified in the determination. The total amount that the present determination makes provision for is \$403 million. This funding brings total AFMs for construction of CNRs to \$621 million to date, following an AFM for \$218 million provided in November.

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

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

Statement of Compatibility with Human Rights

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

Given that the legal effect of annual Appropriation Acts is limited in this way, allocating amounts from the AFM provision in the annual Appropriation Acts does not engage or otherwise affect the human rights described in the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Consultation and Impact

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

This determination results in the amount specified in the Departmental item for Outcome 2 for Finance, as set out in Schedule 2 to the Act, being increased by \$403 million.