

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Finance

*Public Governance, Performance and Accountability Act 2013*

*PGPA Act Determination (Reef Trust Special Account Amendment 2022)*

### ***Purpose of this determination***

This determination is made under subsection 78(3) of the *Public Governance, Performance and Accountability Act 2013 (PGPA Act)* to vary the *PGPA Act (Reef Trust Special Account 2014) Determination 01 (the principal determination)*. The principal determination establishes the *Reef Trust Special Account 2014 (the special account)*. This determination amends the principal determination following the machinery of government changes which commenced on 1 July 2022 (Administrative Arrangements Order dated 23 June 2022 (AAO)).

The AAO transfers responsibility for the subject matter of the special account from the former Department of Agriculture, Water and the Environment to the new Department of Climate Change, Energy, the Environment and Water.

The determination amends the principal determination to:

- update the accountable authority responsible for the special account, and
- make minor drafting amendments.

These minor administrative amendments to the principal determination reflect the machinery of government changes and make the Secretary of the Department of Climate Change, Energy, the Environment and Water responsible for the special account.

### ***The operating context of special accounts***

A special account may be established by a determination made by the Minister for Finance (under section 78 of the PGPA Act) or by an Act (see section 80 of the PGPA Act).

A special account is an appropriation mechanism that sets aside amounts within the Consolidated Revenue Fund (CRF) for spending on specified purposes. The purposes of a special account are set out in the establishing determination or Act.

In accordance with section 81 of the Constitution, all revenues or moneys raised or received by the Commonwealth Executive Government form one CRF. Section 83 of the Constitution provides that such money may not be drawn from the Treasury except under an appropriation made by law.

- A special account enables revenues or moneys raised or received to be set aside for the purposes of that special account.
- Expenditure for the purposes of a special account is supported by an appropriation in the PGPA Act: subsection 78(4) for a special account established by a determination or subsection 80(1) for a special account established by an Act.

### ***Special account determinations***

Special account determinations are legislative instruments for the purposes of the *Legislation Act 2003*. Special account determinations may be varied or revoked by a subsequent determination being made in accordance with subsection 78(3) of the PGPA Act.

In accordance with subsection 79(3) of the PGPA Act, the Finance Minister must table a copy of such determinations in each House of the Parliament. Subsection 79(4) of the PGPA Act provides that special account determinations are subject to disallowance by either House of the Parliament.

The disallowance period starts on the day a special account determination is tabled in the House and ends on the fifth sitting day of the House after the determination was tabled in that House.

If neither House passes a resolution to disallow a special account determination, under subsection 79(5) it commences on the day immediately after the last day on which it could have been disallowed, or on a later day if specified in the determination. This determination specifies that it will commence on the day immediately after the last day on which it could have been disallowed.

### ***Human Rights***

A Statement of Compatibility with Human Rights is not required for this determination. Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires a Statement of Compatibility with Human Rights for all legislative instruments subject to disallowance under section 42 of the *Legislation Act 2003*. While determinations made or varied under subsections 78(1) or 78(3) of the PGPA Act are subject to disallowance under section 79 of the PGPA Act, subsection 79(2) provides that they are not subject to disallowance under section 42 of the *Legislation Act 2003*. As such, a Statement of Compatibility with Human Rights is not required.

### ***Consultation***

The Department of Climate Change, Energy, the Environment and Water was consulted in the preparation of this determination.