**EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Industry, Energy and Emissions Reduction

*Industry Research and Development Act 1986*

*Industry Research and Development (Daintree Microgrid Program) Instrument 2021*

**Purpose and Operation**

Section 33 of the *Industry Research and Development Act 1986* (the IR&D Act) provides a mechanism for the Minister to prescribe programs, by disallowable legislative instrument, in relation to industry, innovation, science or research, including in relation to the expenditure of Commonwealth money under such programs.

The statutory framework provided by section 33 of the IR&D Act enables a level of flexibility to provide authority for Commonwealth spending activities in relation to industry, innovation, science and research programs. This allows the Government to respond quickly and appropriately to the need to implement innovative ideas and pilot programs on an ongoing basis and as opportunities arise. Prescribing programs in legislative instruments provides transparency and parliamentary oversight of Government programs and spending activities, whilst reducing administrative burden on the Commonwealth.

Once a program is prescribed by the Minister under section 33, subsection 34(1) allows the Commonwealth to make, vary or administer arrangements in relation to activities under the prescribed program. Arrangements may include contracts, funding agreements or other arrangements, and may provide for money to be payable by the Commonwealth to one or more third parties. The power conferred on the Commonwealth by subsection 34(1) may be exercised on behalf of the Commonwealth by a Minister or an accountable authority of a non‑corporate Commonwealth entity, or by their delegate (under section 36).

The purpose of the *Industry Research and Development (Daintree Microgrid Program) Instrument 2021* (the Legislative Instrument) is to prescribe the Daintree Microgrid Program (the Program). The funding for the Program has been secured through the Department of Industry, Science, Energy and Resources 2021-2022 Budget. The Program provides $18.75 million of grant funding as part of the Australian Government’s commitment to maintain affordability, reliability and security of electricity supply. The Program will be delivered over three years to support the deployment of a renewable energy microgrid (including hydrogen) in and around Cape Tribulation, Diwan, and Cow Bay in the Daintree region of northern Queensland. The program aims to improve the affordability, reliability and security of energy supply in the community, deploy a priority emerging technology and drive down emissions. The deployment of a microgrid in the Daintree will also have a positive impact on the local economy by supporting job creation in the community. Supporting the demonstration of microgrid solutions, including hydrogen energy storage, will accelerate the deployment of critical technologies while building resilience of electricity supply to extreme weather and bushfires for regional and remote communities.

Funding is available for eligible projects to improve energy security, reliability and affordability in the Daintree through the construction of a renewable energy microgrid (including hydrogen).

Funding authorised by this Legislative Instrument comes from Program 3.1 Supporting reliable, secure and affordable energy, Outcome 3, as set out in the *Portfolio Budget Statements 2021-22, Budget Related Paper No. 1.9, Industry, Science, Energy and Resources Portfolio (*[*https://www.industry.gov.au/sites/default/files/2021-05/2021-22-department-of-industry-science-energy-and-resources-pbs.pdf*](https://www.industry.gov.au/sites/default/files/2021-05/2021-22-department-of-industry-science-energy-and-resources-pbs.pdf)*)* at page 57.

The Program will be delivered by AusIndustry, which is a specialised design, management and delivery body with extensive expertise and capability in delivering similar programs.

The Program will be a closed non-competitive program administered by the Department of Science, Industry, Energy and Resources (the Department) in accordance with the *Commonwealth Grant Rules and Guidelines 2017* ([*https://www.finance.gov.au/sites/default/files/2019-11/commonwealth-grants-rules-and-guidelines.pdf*](https://www.finance.gov.au/sites/default/files/2019-11/commonwealth-grants-rules-and-guidelines.pdf)). Eligibility and merit criteria are outlined in the Program guidelines, which will be made available at: [*https://www.grants.gov.au*](https://www.grants.gov.au).

Spending decisions will be made by the Minister for Energy and Emissions Reduction taking into account the recommendations of the Department.

The grant will be up to a maximum of $18.75 million. No more than 50 per cent of eligible project costs can be funded from the grant.

The Program involves the allocation of finite resources to a successful applicant. In addition, there is a robust and extensive assessment process, an enquiry and feedback process, and an existing complaints mechanism for the affected applicant. Therefore, external merits review does not apply to decisions about the provision of a grant under the Program.

The application will be assessed against the eligibility criteria and merit criteria set out in the Program guidelines in two stages. At first instance, the application will be assessed by AusIndustry against the eligibility criteria. An assessment committee will then consider the eligible application against the merit criteria. This will include comparing the application and scoring it out of 100. The assessment committee may seek input from independent experts to inform their assessments.

The application must address the eligibility and merit criteria, and provide relevant supporting information. The amount of detail and supporting evidence should be relative to the project size, complexity and funding amount requested. The application should include detailed evidence and must score highly against each merit criterion.

After considering the application, the assessment committee will make recommendations to the Program Delegate regarding the application is suitable for funding. The Minister will make the final decision about whether to approve the grant, taking into consideration the assessment committee’s recommendations, and the availability of grant funds.

The applicant will be informed in writing regarding whether their application was successful or unsuccessful. If unsuccessful, the applicant has an opportunity to discuss the outcome with the Department.

Persons who are otherwise affected by decisions or who have complaints about the Program will also have recourse to the Department. The Department investigates any complaints about the Program in accordance with its complaints policy and procedures. If a person is not satisfied with the way the Department handles the complaint, they may lodge a complaint with the Commonwealth Ombudsman.

**External affairs power**

The Legislative Instrument specifies that the legislative power in respect of which the Instrument is made is the external affairs power (section 51(xxix) of the Constitution).

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 under the United Nations Framework Convention on Climate Change (UNFCCC). Article 4 of the UNFCCC requires Australia to undertake a range of activities which will collectively contribute to global reduction of greenhouse gas emissions including through the promotion and cooperation in the development, application, and diffusion of technologies, practises and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases. In that regard, funding provided under the Legislative Instrument will reduce greenhouse gas emissions by providing a local source of renewable energy in the Daintree region where previously non‑renewable energy was used.

Australia has obligations under the Kyoto Protocol to the UNFCCC. Article 10 of the Kyoto Protocol requires Australia to formulate and implement programmes that contain measures to mitigate climate change. In that regard, funding provided under the Legislative Instrument will contribute to the mitigation of climate change by reducing the level of greenhouse gas emissions in the relevant locality.

Australia has obligations under the Paris Agreement. Article 4 of the Paris Agreement commits Australia to making a nationally determined contribution to reduction of greenhouse gas emissions. In that regard, funding provided under the Legislative Instrument will further the objectives of the Paris Agreement by contributing to Australia’s nationally determined greenhouse gas reduction target.

**Authority**

Section 33 of the IR&D Act provides authority for the Legislative Instrument.

**Consultation**

In 2017, a study of electricity supply options in the Daintree received funding from the Australian Renewable Energy Agency, which included consultation with the Daintree community as part of the project.

In 2020, further consultation with the Daintree community was undertaken as part of a feasibility study of a renewable microgrid for the Daintree, which was supported by ad-hoc Commonwealth grant funding under the Regional and Remote Communities Reliability Fund.

The Department consulted with the proponent of the Daintree Microgrid Program during development of the Instrument, including seeking clarification on costs and delivery.

In accordance with section 17 of the *Legislation Act 2003*, the Attorney-General’s Department has been consulted on this Legislative Instrument.

**Regulatory Impact**

It is estimated the regulatory burden is likely to be minor (OBPR ID: 43956).

**Details of the *Industry Research and Development (Daintree Microgrid Program) Instrument 2021***

**Section 1 – Name of Instrument**

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Daintree Microgrid Program) Instrument 2021.*

**Section 2 – Commencement**

This section provides that the Legislative Instrument commences on the day after registration on the Federal Register of Legislation.

**Section 3 – Authority**

This section specifies the provision of the *Industry, Research and Development Act 1986* (the IR&D Act) under which the Legislative Instrument is made.

**Section 4 – Definitions**

This section provides for definitions of terms used in the Legislative Instrument.

**Section 5 – Prescribed Program**

This section prescribes the Daintree Microgrid Program (the Program) for the purposes of section 33 of the IR&D Act.

The Program provides a grant to support the deployment of a renewable energy (including hydrogen) in the Daintree region of the Douglas local government area in north Queensland (within the meaning of the *Local Government Regulation 2012* (QLD)).

**Section 6 – Specified Legislative Power**

This section specifies that the legislative power under which the Legislative Instrument is made is the power of the Parliament to make laws with respect to external affairs (within the meaning of paragraph 51(xxix) of the Constitution).

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

*Industry Research and Development (Daintree Microgrid Program) Instrument 2021*

This 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**

The Legislative Instrument aims to support the Government’s policy objectives to maintain affordability, reliability and security in the electricity system. The Legislative Instrument will support the deployment of a renewable energy microgrid (including hydrogen) within the Daintree region, including Cape Tribulation, Diwan, and Cow Bay in the Daintree, northern Queensland. The project will improve the affordability, reliability and security of energy in the region and reduce emissions.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Angus Taylor MP**

**Minister for Industry, Energy and Emissions Reduction**