

## **EXPLANATORY STATEMENT**

Issued by authority of the Minister for Emergency Management

*Social Security Act 1991*

### ***Social Security (Australian Government Disaster Recovery Payment—Heavy Rainfall and Flooding—City of Moreton Bay Local Government Area—January 2024) Determination (No. 1) 2024***

#### **Legislative Authority**

1. The Australian Government Disaster Recovery Payment (AGDRP) provides an immediate, one-off payment to a person adversely affected by a major disaster.
2. Section 1061K of the *Social Security Act 1991* (the Act) specifies the qualification criteria for the AGDRP. One of the qualification criteria requires a person to be ‘adversely affected by a major disaster’.
3. Subsection 1061L(1) of the Act provides that, for the Act, a person is adversely affected by a major disaster if the person is affected by the major disaster in a way determined by the Minister.
4. Subsection 1061L(2) of the Act provides that the Minister may determine in writing, for a major disaster, the circumstances in which persons are to be taken to be adversely affected by the major disaster.
5. Subsection 36(1) of the Act empowers the Minister to determine in writing that an event is a major disaster if the Minister is satisfied that an event is a disaster that has such a significant impact on individuals that a government response is required, or the event is an emergency to which a national emergency declaration relates.

#### **Background**

6. The Minister for Emergency Management has made a determination under subsection 36(1) of the Act that the heavy rainfall and flooding that commenced on 28 January 2024 and ended on 31 January 2024, and significantly affected the suburb of Bray Park in the City of Moreton Bay local government area, is a major disaster.
7. The *Social Security (Australian Government Disaster Recovery Payment—Heavy Rainfall and Flooding—City of Moreton Bay Local Government Area—January 2024) Determination (No. 1) 2024* (the Determination) sets out the circumstances in which a person is to be ‘adversely affected’ by this major disaster.

## Notes on clauses of the Determination

8. Section 1 specifies the name of the Determination.
9. Section 2 provides that the Determination commences immediately after it is signed. For section 12 of the *Legislation Act 2003*, the Determination may commence before it is registered as it will not disadvantage any persons adversely affected by the major disaster.
10. Section 3 provides that the Determination is made under subsection 1061L(2) of the Act.
11. Section 4 provides definitions relevant to the Determination, including *destroyed*, *immediate family member*, *major asset or assets*, *major damage*, *seriously injured* and *principal place of residence*.
12. Subsection 5(1) provides that the Determination applies to the major disaster being the heavy rainfall and flooding that commenced on 28 January 2024 and ended on 31 January 2024, affecting the suburb of Bray Park within the City of Moreton Bay local government area.
13. Subsection 5(2) provides that the circumstances in which a person is taken to be adversely affected by the major disaster mentioned in subsection 5(1) are if:
  - (a) the person is seriously injured as a direct result of the major disaster (paragraph 5(2)(a)); or
  - (b) the person is an immediate family member of an Australian citizen or resident who is missing and presumed killed or killed as a direct result of the major disaster (paragraph 5(2)(b)); or
  - (c) the person's principal place of residence has been destroyed or has major damage as a direct result of the major disaster (paragraph 5(2)(c)); or
  - (d) a major asset or assets of the person has or have been destroyed or suffered major damage as a result of the major disaster; or
  - (e) the person is a carer of a child to whom paragraphs 5(2)(a), (b), (c) or (d) apply (paragraph 5(2)(e)).

## Consultation

14. Formal consultation has not been undertaken as the Determination was required to commence as a matter of urgency.
15. The Office of Impact Analysis (OIA) was not consulted in relation to this instrument due to the need for urgent commencement. More broadly, the National Emergency Management Agency (NEMA) continues to engage with OIA in relation to arrangements for impact analysis in relation to instruments made under subsection 1061L(2) of the Act, which typically require urgent consideration and commencement to provide appropriate support for local communities affected by major disasters
16. Information about the support made available to individuals affected by this event will be made available on NEMA's website.

## **Other matters**

17. The Social Security Act does not impose any conditions that need to be satisfied before the power under subsection 1061L(2) of the Act to make the Determination may be exercised.
18. Subsection 1061L(3) of the Act provides that a determination under section 1061L is a legislative instrument. However, the Determination is not subject to disallowance by the Parliament as subsection 1061L(3) of the Act provides that section 42 of the Legislation Act 2003 does not apply to it.