**EXPLANATORY STATEMENT**

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

*Financial Framework (Supplementary Powers) Act 1997*

*Financial Framework (Supplementary Powers) Amendment*

*(Infrastructure, Transport, Regional Development, Communications and the Arts 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 sunsetting under section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (item 28A). If the Principal Regulations were subject to the sunsetting 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 FFSP 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 (Infrastructure, Transport, Regional Development, Communications and the Arts Measures No. 4) Regulations 2024* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on activities administered by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

Funding is provided for the:

* Strategic Fleet Pilot Program to enable the Australian Government to secure maritime capability to call on in times of need, such as natural disasters, crisis or conflict (financial implications for this element are not for publication due to commercial‑in‑confidence sensitivities);
* Measures to Progress First Nations Digital Inclusion to establish a First Nations Digital Support Hub ($4.0 million over two years from 2024-25) and a network of digital mentors ($18.0 million over three years from 2024-25);
* Supporting Regional Aviation Programs to establish legislative authority for government spending on the three regional airport programs the Regional Airports Program ($40.0 million over three years from 2024-25), Remote Airstrip Upgrade Program ($50.0 million over three years from 2024-25), Remote Aerodrome Inspection Program ($0.5 million per year ongoing funding from 2024-25 and indexed funding from 2025-26); and
* *Revive* Live program to provide essential support to live music venues and music festivals to withstand the current operating climate, limit venue closures and event cancellations, and stimulate long-term sustainability ($8.6 million in 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 been undertaken with the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

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.

**Attachment A**

**Details of the *Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development, Communications and the Arts Measures No. 4) Regulations 2024***

**Section 1 – Name**

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development, Communications and the Arts 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***

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

This item adds four new table items to Part 4 of Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on activities to be administered by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department).

*Table item 670 – Strategic Fleet Pilot Program*

New **table item 670** establishes legislative authority for government spending on the Strategic Fleet Pilot Program (the pilot program) to enable the Australian Government to secure maritime capability to call on in times of need, such as natural disasters, crisis or conflict.

The strategic fleet is a key Government election commitment entitled ‘Labor Will Create a Strategic Fleet to Protect Our National Security and Economic Sovereignty’ published on 3 January 2022. Consistent with the election commitment, the Government appointed the Strategic Fleet Taskforce (the Taskforce), chaired by Mr John Mullen, to provide advice which has guided the Government’s decision making on how to establish and support the fleet. The Taskforce provided its final report to the Government on 30 June 2023. The Taskforce made 16 recommendations.

The Taskforce’s report and the Government’s response were published on 8 November 2023. The Government agreed or agreed in principle to 12 recommendations and committed to further analysis of the remaining four. The Taskforce’s report and the Government’s response are available at https://www.infrastructure.gov.au/infrastructure-transport-vehicles/maritime/  
maritime-strategic-fleet/maritime-strategic-fleet-taskforce.

The strategic fleet will be a fleet of up to 12 Australian flagged and crewed, privately owned and commercially operated ships. The strategic fleet will be available to the Government to requisition in times of need, such as natural disasters, crisis or conflict. The primary objective of the strategic fleet is to provide Australia with additional tools and sovereign capabilities to respond to a broad range of disaster and disruption scenarios. The strategic fleet will also provide a new platform to promote and support seafarer employment and training which will strengthen Australia’s maritime capabilities.

The first stage of implementing the strategic fleet will be through a five-year pilot program with three vessels. Strategic fleet vessels could be used to transport critical supplies such as fuel, food, medical supplies and munitions. Given the broad range of scenarios for which the strategic fleet could be relied upon, the pilot program will seek a range of vessel capabilities to provide the Government with flexibility in responding to crises. The fleet’s capabilities will align with the needs of Commonwealth agencies most likely to use the strategic fleet.

Funding is expected to achieve three outcomes:

* attract vessel operators to participate in the pilot program by bridging the cost gap associated with operating an Australian flagged and crewed vessel, and costs for providing training berths to Australian seafarers;
* establish a mechanism to enable Commonwealth agencies to use strategic fleet vessels to fulfil commercial shipping needs at market rates through existing frameworks; and
* provide the Commonwealth with assured access to maritime capability in times of need through a vessel requisition.

The funding will be used to meet the cost gap between operating an Australian vessel relative to a foreign vessel. Detailed analysis indicated the cost gap of operating an Australian flagged and crewed vessel to be approximately between $5.0 to $8.0 million annually, depending on the vessel type and crew numbers.

Vessel operators will be entitled to claim in the event their vessel is requisitioned by a Commonwealth agency. There is a significant risk that vessel operators will decide not to participate in the pilot if compensation is not available due to the risk a requisition will have to business continuity and their other commercial agreements. Appropriate compensation arrangements will be negotiated in the context of contracts to participate in the pilot program. Anticipated compensation costs may include vessel charter rates and operating expenses for replacement vessels to backfill regular trade, cargo displacement and lost revenue as a result of the requisition. Contracts will include safeguards and reporting requirements to mitigate cost risks in scenarios where the urgency of action limits the Government’s negotiating power.

Given the unpredictable nature of natural disasters, geopolitical tensions, and supply chain disruptions, it is not possible to accurately predict how often vessels would need to be requisitioned, or for how long, which increases the difficulty of accurately estimating the quantum of funding required to be set aside for requisitioning payments.

In the short term, Commonwealth agencies seeking to requisition a strategic fleet vessel will be responsible for determining their own funding mechanism from within their existing resources to pay requisition costs. For example, the Department of Defence already has funding available to secure maritime capability to move Defence cargo, and the Department of Foreign Affairs and Trade has funding available to secure maritime capability to deliver aid to international partners following a weather disruption event.

A number of Commonwealth agencies may seek to requisition strategic fleet vessels. Requisition costs will be ad hoc payments to non-government organisations to deliver maritime services in times of need.

Tenders to participate in the pilot are expected to open early in 2024-25, with the first vessels becoming operational as quickly as possible after applications are assessed.

*Funding amount and arrangements, merits review and consultation*

Funding for the pilot program was included in the 2024-25 Budget under the measure ‘Delivering a Strategic Fleet’ for a period of five years commencing in 2024-25. Details are set out in *Budget 2024-25, Budget Measures, Budget Paper No. 2* at pages 146 and 147. Funding for this element is not for publication due to commercial-in-confidence sensitivities. It is the intent of the Government to inform the Parliament of the funding amount expected to be expended once contracts are awarded.

Funding for this item will come from Program 2.1: Surface Transport, which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.12, Infrastructure, Transport, Regional Development, Communications and the Arts Portfolio* at page 34.

The pilot program will be delivered through an open tender process in accordance with the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the *Commonwealth Procurement Rules* (CPRs).

The type of vessels participating in the pilot program will be market led, with vessel operators required to submit a tender to participate. Tenders to join the strategic fleet will be assessed by the department and by an independent expert panel, who will make recommendations to the Minister for Infrastructure, Transport, Regional Development and Local Government (the Minister). The Minister will then make the final decision on which tenders are successful. Vessels will be selected through a competitive, open and transparent process in line with the CPRs that ensures the Government achieves value for money. Tenderers will advise the level of financial support they would require to participate in the pilot which will be tested and verified through independent advice.

Guidelines for the pilot program will provide the framework around the pilot program and will outline the eligibility criteria, requisitioning processes, and mutual obligations for participation. The guidelines will form the basis of commercial contracts between the Commonwealth and strategic fleet vessel operators. Contracts will include robust governance and reporting requirements to minimise delivery and reputational risks for the Government. The delegate that approves all non-requisition payments will be the Senior Executive Service (SES) Band 1 with relevant skills, experience and knowledge responsible for the pilot program. Funding will be managed in accordance with the PGPA Act and the CPRs.

Subject to commercial sensitivities, information about the related contracts, including successful tenders will be made available on AusTender (www.tenders.gov.au) and the department’s website once these are signed. Decisions on successful tenders will be based on the Government’s strategic fleet objectives, value for money outcomes, including the vessel operator’s capacity to deliver the required maritime capabilities, and risk considerations.

Funding decisions made in connection with the pilot 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 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 remaking of a decision after entry into a contractual arrangement with a successful provider is legally complex, impractical, and could result in delays to the implementation of the pilot program.

While decisions are final and not subject to review, unsuccessful applicants will be given the opportunity to discuss why their application did not succeed.

The *Government Procurement (Judicial Review) Act 2018* enables suppliers to challenge some procurement processes for alleged breaches of certain procurement rules. This legislation might provide an additional avenue of redress (compensation or injunction) for dissatisfied providers or potential providers, depending on the circumstances.

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the *Judiciary Act 1903* (Judiciary Act) may be available.

Consultation on the strategic fleet has been ongoing since the establishment of the Taskforce in 2022. The Taskforce engaged in broad stakeholder consultation throughout its appointment, including:

* Phase 1 - the release of a discussion paper with 59 submissions received from a range of stakeholders including academics, Commonwealth and State agencies, private citizens, maritime unions, shipping providers, onshore users of shipping, port authorities, and peak industry bodies. The Taskforce also conducted targeted consultation sessions engaging separately with maritime unions, onshore users of shipping, shipping providers and fuel and energy users of shipping. These sessions enabled in-depth discussions about the strategic purpose of the fleet, while allowing participants to ask and answer questions; and
* Phase 2 - further targeted engagement with industry, including an open invitation to stakeholders to submit plans, options or ideas for the strategic fleet, with 17 responses received. The Taskforce also met separately with 17 select ship owner and operator stakeholders to test the viability of potential options developed to implement and support the fleet.

Following the work of the Taskforce, the department has been consulting with industry on implementation arrangements for the strategic fleet. Consultation papers were issued targeting vessel operators and cargo owners seeking their views on participation in the fleet, workforce and skills and business effects of requisitioning. These views were influential in developing implementation proposals for the Government to consider. The department also issued two strategic fleet guidelines consultation papers and held an industry workshop in partnership with Maritime Industry Australia Limited that was attended by key stakeholders. The department also met with stakeholders most likely to consider participating in the pilot one-on-one. Stakeholder views have influenced development of the guidelines.

The department has also been consulting broadly across Commonwealth and state governments. Engagement with the Departments of Defence, Foreign Affairs and Trade and Home Affairs, Maritime Safety Queensland and Western Australia Department of Transport focused on vessel capabilities that should be sought for the pilot. This consultation provided the department with a strong understanding of the vessel capabilities required by these agencies to deliver their business-as-usual functions and the vessel capabilities that would have the most utility in a scenario where they would seek to requisition a strategic fleet vessel. The department also sought views from Commonwealth agencies and on the strategic fleet guidelines developed with industry.

Consultation will continue throughout the pilot program to ensure lessons are learnt, and parameters are appropriately assessed, including through the planned post implementation review.

*Statement of relevant constitutional considerations*

1. 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 trade and commerce power (section 51(i));
* the defence power (section 51(vi));
* the external affairs power (section 51(xxix));
* the executive power and express incidental power (sections 61 and 51(xxxix)); and
* the Territories power (section 122).

*Trade and commerce power*

Section 51(i) of the Constitution empowers the Parliament to make laws with respect to ‘trade and commerce with other countries, and among the states’.

The pilot program will ensure vessels are available for the Government to requisition in times of need such as natural disasters, crisis or conflict and may involve activities for the purposes of international or interstate trade and commerce.

*Defence power*

Section 51(vi) of the Constitution empowers the Parliament to make laws with respect to ‘the naval and military defence’ of the Commonwealth and States, and ‘the control of the forces to execute and maintain the laws of the Commonwealth’.

The pilot program will ensure vessels are available for the Government to requisition in times of need such as natural disasters, crisis or conflict including for the purposes of defence.

*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 with respect to matters or things outside the geographical limits of Australia. The external affairs power supports legislation with respect to matters concerning Australia’s relations with other nations.

The pilot program will ensure vessels are available for the Government to requisition in times of need such as natural disasters, crisis or conflict and may involve activities which are in relation to Australia’s relations with other countries or implementation of Australia’s obligations under an international agreement.

*Executive power and express incidental power*

The express incidental power in section 51(xxxix) of the Constitution empowers the Parliament to make laws with respect to matters incidental to the execution of any power vested in the Parliament, the executive or the courts by the Constitution. Section 61 of the Constitution supports activities that are peculiarly adapted to the government of a nation and cannot be carried out for the benefit of the nation otherwise than by the Commonwealth.

The pilot program will ensure vessels are available for the Government to requisition in times of need such as natural disasters, crisis or conflict and may involve activities which are of a national quality and are peculiarly adapted to the government of a nation.

*Territories power*

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

The pilot program will ensure vessels are available for the Government to requisition in times of need such as natural disasters, crisis or conflict and may involve activities which are in relation to a Territory.

*Table item 678 - Measures to Progress First Nations Digital Inclusion*

Table item 678 in Part 4 of Schedule 1AB provides legislative authority for government spending on measures to progress First Nations digital inclusion, establishing a First Nations Digital Support Hub and a network of digital mentors (the measures).

On 18 January 2023, the Minister for Communications established the First Nations Digital Inclusion Advisory Group (the Advisory Group), which includes co-chairs Ms Dorothy (Dot) West OAM and Associate Professor Lyndon Ormond-Parker, and members Professor Bronwyn Carlson, Ms Talei Elu, Ms Naomi Moran, Dr Heron Loban and Mr Jerome Cubillo. Further information is available at: https://www.digitalinclusion.gov.au.

The Advisory Group has undertaken extensive stakeholder engagement and their initial report was released in October 2023. The Advisory Group continues to undertake consultation with industry and First Nations communities to help inform the Government’s broader policy agenda regarding the National Agreement on Closing the Gap, specifically Target 17, which aims for equal levels of digital inclusion for First Nations Australians by 2026 through improving access, affordability and digital ability.

The initial report can be found at: https://www.digitalinclusion.gov.au/initial-report.

The Honourable Michelle Rowland MP, Minister for Communications, announced as part of the 2024‑25 Budget an investment of $68.0 million in First Nations Digital Inclusion measures which was based on the Advisory Group’s initial report.

The announcement was made on 14 May 2024 and can be found on the department’s website: https://minister.infrastructure.gov.au/rowland/media-release/boosting-connectivity-and-safety-australians.

The Government investment of $68.0 million has included the following measures with a focus on developing the digital capability and supporting safe use of the internet by First Nations Australians:

* First Nations Digital Support Hub, allocated $4.0 million over two years from 2024‑25, that aims to:
* provide national support, including online and via telephone, to help build:
  + digital ability and understanding; and
  + connectivity literacy;

including general support and troubleshooting;

* deliver a community-level service to support connectivity literacy and identify available connectivity options in specific communities or locations;
* develop tailored culturally appropriate support resources in language that can be accessed publicly by First Nations Australians; and
* establish the necessary infrastructure to support the delivery of Support Hub services.

Subject to consultation on the design, the First Nations Digital Support Hub will also be responsible for implementing, engaging and coordinating the network of digital mentors.

* Network of digital mentors, allocated $18.0 million over three years from 2024-25, that will deliver in-person and online training, such as workshops that aims to:
* help community members access online services effectively;
* increase awareness of risks (such as scams) and ways to mitigate those risks;
* assist with problems with internet connection or device; and
* support community members to understand and use Digital ID.

The network of digital mentors will build on tested processes and arrangements in remote communities, including programs, for example, such as inDigiMOB, which aims to improve digital inclusion for Aboriginal and Torres Strait Islander people in remote communities by:

* + establishing a network of local digital mentors;
  + improving digital literacy through workshops and training; and
  + providing technical advice that aims to improve digital inclusion for Aboriginal and Torres Strait Islander people in remote communities.

The network of digital mentors will be community members that provide permanent and ongoing digital inclusion support in their communities. It is intended that each community will have at least two mentors, including one who identifies as male and one who identifies as female, with additional consideration for including gender-diverse individuals, to address cultural gender sensitivities.

The measures are funded from a combination of the Better Connectivity Plan for Regional and Rural Australia an initiative administered by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts and the Indigenous Advancement Strategy (IAS) administered by the National Indigenous Australians Agency.

The Better Connectivity Plan for Regional and Rural Australia is part of the Australian Government’s telecommunications agenda to improve mobile and broadband connectivity and resilience in rural and regional Australia. Improvements in digital connectivity deliver some of the most tangible and widespread benefits across a range of areas including economic and social participation and equality, access to online government, health and education services, and public safety including on roads and during disasters and emergencies: https://www.infrastructure.gov.au/media-communications-arts/better-connectivity-plan-regional-and-rural-australia.

The Indigenous Advancement Strategy is the way the Australian Government funds and delivers a range of programs for First Nations Australians under six key components including, jobs, land and economy, children and schooling, safety and wellbeing, culture and capability, remote Australian strategies and research and evaluation: https://www.indigenous.gov.au/indigenous-advancement-strategy.

*Funding amount and arrangements, merits review and consultation*

The funding of $22.0 million for the measures was included in the 2024‑25 Budget under the measure ‘First Nations Digital Inclusion’ for a period of three years commencing in 2024‑25. Details are set out in *Budget 2024-25, Budget Measures, Budget Paper No. 2* at page 148. The cost of these measures will be offset by redirecting funding from the 2022‑23 October Budget measure titled Better Connectivity Plan and from the National Indigenous Australians Agency’s Indigenous Advancement Strategy.

Funding for this item will come from Program 5.1: Digital Technologies and Communications Services, which is part of Outcome 5. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.12, Department of Infrastructure, Transport, Regional Development, Communications and the Arts Portfolio* at pages 70-71.

The measures will be implemented using a multi-year funding approach, either via grant or procurement processes. Following a public consultation process with First Nations and industry stakeholders on design of the measures, the Minister for Communications will determine the appropriate funding mechanism and arrangement.

An exemption from using Grants Hub services has been granted and the grant or procurement processes will be administered directly by the department.

Grant Opportunity Guidelines will be published on GrantConnect and advice on the department’s website. The Grant Opportunity Guidelines will be based on the Australian Government Grant Opportunity Guideline template and will include outcomes and objectives, eligibility and merit criteria, details of the assessment process, contracting arrangements and a timeline.

Potential applicants will have the opportunity to ask questions about Grant Opportunity Guidelines and the assessment process through a dedicated email address. Responses which provide new information will be made available to all potential applicants through an addendum to the Grant Opportunity Guidelines and published on GrantConnect at: https://www.grants.gov.au.

The department will assess the applications for eligibility, merit, risk and value for money and provide advice and recommendations. The Minister for Communications will make decisions on applications to be funded in accordance with obligations under the PGPA Act.

Funding decisions will be made objectively and in accordance with the assessment process set out in the Grant Opportunity Guidelines and applicable legislative requirements under the PGPA Act. Funding will not be approved if the available funding across financial years will not accommodate the funding offer, and/or the applications do not represent value for relevant money. Grants provided will be publicly available at: https://www.grants.gov.au.

Grant recipients must enter into a legally binding grant agreement, which will include terms and conditions of funding, reporting requirements, milestones and payment arrangements.

Merits review of decisions made in connection with the grant would not be considered appropriate because these decisions relate to the provision of a one-off grant to a certain service provider, over other service providers. 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 4.16 to 4.19 of the ARC guide).

The measures will be delivered in accordance with Australian Government obligations and processes within the department. Applicants who are affected by decisions or who have complaints have recourse in accordance with a Client Service Charter, and such complaints will be investigated under the department complaints policy and procedures. Information on the Charter and handling of complaints is available at www.infrastructure.gov.au/about-us/corporate-reporting/client-service-charter.

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the Judiciary Act may be available. If the applicant is not satisfied with the outcome of the assessment or investigation of their complaint, they may contact the Commonwealth Ombudsman as a final recourse.

During the consultation process, the Advisory Group engaged extensively with the following stakeholders:

* First Nations organisations, including:
  + First Nations Media Australia;
  + Goolarri Media;
  + ICTV;
  + Imparja;
  + Centre for Appropriate Technology;
  + Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS);
  + Central Land Council;
  + Kimberley Land Council; and
  + Tangentyere Land Council;
* state and territory governments;
* industry stakeholders from the telecommunications industry, such as:
  + Telstra;
  + NBN Co;
  + Optus;
  + Vocus; and
  + Communications Alliance;
* media and broadcasting sectors.

Further consultation on the design of the measures is being undertaken with the Advisory Group, and more broadly and publicly with interested stakeholders. The department’s ‘Have your Say’ page (https://www.infrastructure.gov.au/have-your-say) is being utilised in these consultations, and roundtable discussion with different sectors will also be undertaken to inform draft Grant Opportunity Guidelines. These consultation activities have commenced and will continue until August 2024.

In line with Priority Reform 1 of the National Agreement on Closing the Gap and the recommendations of the Advisory Group, these measures will be designed and delivered in partnership with First Nations people and communities. The department will continue to work with the Advisory Group and other key stakeholders on the final design of these measures, as this will be a crucial factor in their overall success.

*Constitutional considerations*

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the telecommunications power (s 51(v) of the Constitution).

*Communications power*

Section 51(v) of the Constitution empowers the Parliament to make laws with respect to ‘postal, telegraphic, telephonic and other like services.

Funding will support First Nations digital inclusion, including expenditure on the First Nations Digital Support Hub, which is intended to provide national support, including online and via telephone, to improve the digital ability of First Nations consumers and communities; and a network of digital mentors which is intended to engage community members to provide permanent, ongoing and tailored digital inclusion support in their communities.

*Table item 679 – Supporting Regional Aviation Programs*

Table item 679 in Part 4 of Schedule 1AB provides legislative authority for government spending for the Supporting Regional Aviation Programs comprising the:

* Regional Airports Program;
* Remote Airstrip Upgrade Program; and
* Remote Aerodrome Inspection Program.

The Government has committed to deliver an Aviation White Paper, that will set out the Government’s policies for aviation to guide the next generation of growth and innovation in the aviation sector to 2050. Extensions to the three regional airport program initiatives were announced in the 2024-25 Budget. More information is available on the department website: https://www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/aviation-white-paper.

The extension of funding for all three programs was announced on 14 May 2024 by the Minister, the Honourable Catherine King: https://minister.infrastructure.gov.au/c-king/media-release/investment-deliver-future-made-australia.

*Regional Airports Program* (RAP)

The Australian Government committed $100.0 million over four years from 2019–20 to 2022-23 to the RAP. The RAP is a rounds-based competitive grant program. Following the impacts of COVID-19, the RAP was extended for two years to allow projects to be completed. To date, three grant rounds have been undertaken.

The RAP aims to:

* improve the safety of aircraft, operators and passengers using regional airports or aerodromes;
* facilitate improved delivery of essential goods and services, such as food supplies, health care, and passenger air services;
* improve the connectivity of Australia’s regions to domestic and global market opportunities; and
* meet the operational requirements of aeromedical and other emergency services in the region.

Eligible regional airport owners or operators can apply for funding to undertake essential works such as: runway resurfacing, lighting upgrades, drainage upgrades, line marking and security fencing.

The RAP will be extended and expanded to provide an additional $40.0 million over three years from 2024-25, for regional airport owners to invest in safety and accessibility upgrades. The program will be extended to allow for infrastructure that will assist air services to transition to net zero emissions such as electric chargers or hydrogen storage facilities.

*Remote Airstrip Upgrade Program* (RAU)

The RAU is a competitive grant program with funding rounds open to potential grantees based on the specialised requirements of the grant, namely remote airstrips and aerodromes. Ten grant rounds of the RAU have been undertaken since its establishment in 2011.

The RAU will be extended to provide an additional $50.0 million over three years from 2024‑25, to support improving the safety of remote airstrips across Australia. The RAU will be expanded to support access for people with disability at remote airstrips.

The RAU aims to:

* improve the safety of aircraft, operators and passengers using remote airstrips;
* facilitate improved delivery of essential goods and services and services such as food supplies, health care, community mail and passenger services
* complement air services delivery to communities subsidised under the Australian Government’s Remote Air Services Subsidy (RASS) Scheme; and/or
* meet operational requirements of the Royal Flying Doctor Service (RFDS), or operators providing similar aeromedical services.

This will be achieved by funding upgrades to remote airstrips, such as sealing, re-sheeting, re-contouring of airstrips, upgrades to lighting, including pilot activated lighting, construction of basic airside ambulance and emergency patient shelters, and upgrading perimeter fences.

Furthermore, RAU projects support Closing the Gap targets such as Outcomes (1) Everyone enjoys long and healthy lives, (2) Children are born healthy and strong, (6) Students reach their full potential through further education pathways and (8) Strong economic participation and development of people and their communities.

*Remote Aerodrome Inspection Program* (RAI)

The RAI has been in operation since 1992, providing critical aerodrome inspection reports for the operators of up to 56 identified remote aerodromes across the Northern Territory, Queensland and Western Australia that are predominately located in, or adjacent to, First Nations communities.

The RAI assist those communities to meet their aviation safety obligations. Further funding of $0.5 million per year ongoing from 2024-25 and indexed from 2025-26 has been provided to fund RAI to continue providing critical inspection services to support the safety of remote airport operations.

The department procures a specialist aerodrome contractor sourced from an open Approach to Market (ATM). The report is provided to the aerodrome operator in line with the Civil Aviation Safety Authority (CASA) requirements.

In addition, a contractor procured by the department may also provide the following, as required and within the available funding:

* aerodrome reporting officer training, in person or online where the need is identified in the aerodrome inspection report; and
* ad hoc aviation technical advice may be provided to the department and the aerodrome owner via report or online in relation to any safety matters.

Remedial works or operating costs for airstrips under the program are not funded by the RAI.

Further information on the regional and remote aviation programs is available on the department’s website at www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/regional-remote-aviation.

*Funding amount and arrangements, merits review and consultation*

Funding of $40.0 million for the RAP is included in the 2024-25 Budget under the Supporting Transport Priorities budget measure over three years commencing in 2024-25.

Funding of $50.0 million for the RAUP is included in the 2024-25 Budget under the Supporting Transport Priorities budget measure over 3 years commencing in 2024-25.

Annual funding of $0.5 million ongoing from 2024-25 and indexed from 2025-26 for the RAIP is included in the 2024‑25 Budget under the Supporting Transport Priorities budget measure.

Details are set out in *Budget 2024-25, Budget Measures, Budget Paper No. 2* at page 153.

Funding for this item will come from Programs 2.3: Supporting Transport Priorities, which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.12, Infrastructure, Transport, Regional Development, Communications and the Arts Portfolio* at page 50.

*Funding decisions for the RAP*

The Business Grants Hub in the Department Industry, Science and Resources will be contracted and will be responsible for delivering RAP rounds 4 and 5 including the following program aspects: engage, design, eligibility assessment, establish, manage, enabling and support services, payments, stakeholder engagement and Business Grants Hub aspects of program management and administration. The department will be responsible for ministerial briefing, development of guidelines, merit assessment, stakeholder engagement, evaluation, and departmental overarching program management and administration.

Governance of the program will be managed and administered in accordance with legislation such as the PGPA Act and other instruments including the CGRGs. The Minister for Infrastructure, Transport, Regional Development and Local Government (or their delegate) is responsible for the grant approval, funding to be awarded and any conditions attached to the grant funding.

Within the department, decisions in relation to program funding are undertaken consistent with delegations provided by the Secretary, under the FFSP Act to an SES Band 1 with responsibility for the program, with skills, qualifications, knowledge and experience relevant to the administration of grant programs and regional aviation.

The Secretary of the department has also delegated under the FFSP Actauthority for administration of the program and making of payments under the program to the Business Grants Hub.

Successful applicants will be selected through a competitive process. The Business Grants Hub undertakes an eligibility assessment and the department undertakes a merit assessment. The department assessment panel reviews all applications which will then make recommendations to the Minister for decision. The Minister will not approve funding if there are insufficient program funds available across relevant financial years for the RAP. Successful applicants and approved projects are published online to www.grants.gov.au and www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/regional-remote-aviation/regional-airports-program.

*Funding decisions for the RAU*

The Business Grants Hub will be contracted and will be responsible for delivering the RAU aspects for grant rounds 11 and 12: engage, design, eligibility assessment, establish, manage, enabling and support services, payments, stakeholder engagement and Business Grants Hub aspects of program management and administration. The department will be responsible for: ministerial briefing, development of guidelines, merit assessment, stakeholder engagement, departmental overarching program management and administration.

Governance of the RAU will be managed and administered in accordance with legislation such as the PGPA Act and other instruments including the CGRGs. The responsible Minister, currently, the Assistant Minister for Regional Development (Assistant Minister) is responsible for the grant approval, funding to be awarded and any conditions attached to the grant funding.

Within the department, decisions in relation to program funding are undertaken consistent with delegations provided by the Secretary, under the FFSP Actto an SES Band 1 with responsibility for the RAU, with skills, qualifications, knowledge and experience relevant to the administration of grant programs and regional aviation.

The Secretary of the department has also delegated under the FFSP Actauthority for administration of the program and making of payments under the program to the Business Grants Hub.

Successful applicants will be selected through a competitive process. The Business Grants Hub undertakes an eligibility assessment and the department undertakes a merit assessment. The department assessment panel reviews all applications which will then make recommendations to the Assistant Minister for decision. The Assistant Minister will not approve funding if there are insufficient program funds available across relevant financial years for the RAU. Successful applicants and approved projects are published online to www.grants.gov.au and www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/regional-remote-aviation/remote-airstrip-upgrade.

*Funding decisions for the RAI*

The inspections for the RAI are undertaken by a contractor who is sourced from an open ATM. The department undertakes governance of the RAI including assessing responses to the ATM in accordance with legislation such as the PGPA Act. Within the department, decisions in relation to program funding are undertaken consistent with delegations provided by the Secretary, under the FFSP Act to an SES Band 1 with responsibility for the RAI, with skills, qualifications, knowledge and experience relevant to the administration of procurement and regional aviation.

Information on the RAI is available on the department’s website at www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/regional-remote-aviation/remote-aerodrome-inspection-programme.

Merits review of decisions made in connection with a grant in relation to the Supporting Regional Aviation Programs would not be considered appropriate because these decisions relate to the provision of a one-off grant to a certain service provider, over other service providers. 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 4.16 to 4.19 of the ARC guide).

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the Judiciary Actmay be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The Government routinely consults with state and local government as business as usual through the administration of the programs. The White Paper process has included extensive consultation with industry and local governments on regional aviation programs including the RAP and RAU. The overwhelming feedback from stakeholders supported the extension and expansion of the RAP and RAU with additional funding for more projects.

Those who provided feedback to the White Paper process include government bodies, experienced regional aviation professional organisations and individuals, airport owners and representatives of industries which are supported by aviation.

The RAU has been most recently independently evaluated in 2022 at which time:

* 164 applicants responded to a survey;
* 26 case studies were undertaken; and
* industry stakeholders were consulted.

The RAI has been most recently reviewed in 2022 at which time all RAI aerodromes were provided the opportunity to contribute. The consultants engaged to formally evaluate the RAU and RAI programs for the department prioritised seeking feedback from applicants, remote airport operators, industry stakeholders, such as:

* RFDS,
* regional airlines; and
* government agencies, who were very familiar with the program guidelines and administration.

Feedback received in relation to the review indicated a clear and demonstrated need for government support to continue. The findings from the evaluation were considered during White Paper processes.

*Statement of relevant constitutional considerations*

Noting that it is not a comprehensive statement of the relevant constitutional considerations, the objective of the item references the following powers in the Constitution:

* the trade and commerce power (section 51(i));
* the communications power (section 51(v));
* the medical services aspect of the social welfare power (section 51(xxiiiA));
* the race power (section 51(xxvi));
* the reference power (section 51(xxxvii));
* the grants power (sections 96 and 122); and
* the territories power (section 122).

*Trade and commerce power*

Section 51(i) of the Constitution empowers the Parliament to make laws with respect to ‘trade and commerce with other countries, and among the states’.

The RAP is intended to improve the safety of aircraft, operators and passengers using regional airports or aerodromes, which will facilitate improved delivery of essential goods and services such as food supplies, health care and passenger air services, improve the connectivity of Australia's regions to domestic and global market opportunities and meet the operational requirements of aeromedical and other emergency services in the region.

The RAU seeks to enhance the safety and accessibility of aerodromes in remote and very remote areas of Australia that may be used to facilitate international or interstate trade and commerce. The RAI will provide identified remote Indigenous communities with annual aerodrome inspections and related services to assist those communities to meet their aviation safety obligations. An objective of both of these programs is to improve access to interstate travel for regional and remote areas.

*Communications power*

Section 51(v) of the Constitution empowers the Parliament to make laws with respect to ‘postal, telegraphic, telephonic and other like services’.

The RAP is intended to improve the safety of aircraft, operators and passengers using regional airports or aerodromes, which will assist postal services and facilitate improved delivery of essential goods and services.

The RAU seeks to enhance the safety and accessibility of aerodromes in remote and very remote areas of Australia. The RAI will provide identified remote Indigenous communities with annual aerodrome inspections and related services to assist those communities to meet their aviation safety obligations. Both of these programs will assist postal services from remote and regional airports.

*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 medical services.

The RAP is intended to improve the safety of aircraft, operators and passengers using regional airports or aerodromes, which will facilitate improved care flights or the provision of medical services and meet the operational requirements of aeromedical and other emergency services in the region.

The RAU seeks to enhance the safety and accessibility of aerodromes in remote and very remote areas of Australia. The RAI provides identified remote Indigenous communities with annual aerodrome inspections and related services to assist those communities to meet their aviation safety obligations. Both programs will facilitate the provision of medical services in regional and remote communities.

*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 RAP is intended to improve the safety of aircraft, operators and passengers using regional airports or aerodromes, which will help First Nations peoples living in regional or remote areas access aerodromes for transport and essential services such as food supplies, health care and aeromedical and other emergency services.

The RAU seeks to enhance the safety and accessibility of aerodromes in remote and very remote areas of Australia, which will be of particular benefit to First Nations peoples living in remote and regional communities. The RAI provides identified remote Indigenous communities with annual aerodrome inspections and related services to assist those communities to meet their aviation safety obligations.

*Referral power*

Section 51(xxxvii)) of the Constitution empowers the Parliament to make laws with respect to matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States. The Queensland and Tasmanian Parliaments have referred the matter of ‘air transport’ to the Commonwealth Parliament via the *Commonwealth Powers (Air Transport) Act 1950* (Qld) and the *Commonwealth Powers (Air Transport) Act 1952* (Tas).

The RAP is intended to improve the safety of aircraft, operators and passengers using regional airports or aerodromes, including in Queensland and Tasmania, which will facilitate improved delivery of essential goods and services such as food supplies, health care and passenger air services, improve the connectivity of Australia's regions to domestic and global market opportunities and meet the operational requirements of aeromedical and other emergency services in the region.

The RAU seeks to enhance the safety and accessibility of aerodromes in remote and very remote areas of Australia, which includes airports in Queensland and Tasmania. The RAI provides identified remote Indigenous communities with annual aerodrome inspections and related services to assist those communities to meet their aviation safety obligations, which includes remote communities in Queensland and Tasmania.

*Power to grant financial assistance to States*

Section 96 of the Constitution empowers the Parliament to ‘grant financial assistance to any State on such terms and conditions as the Parliament thinks fit’.

The RAP is intended to improve the safety of aircraft, operators and passengers using regional airports or aerodromes which are operated by a State, to facilitate improved delivery of essential goods and services such as food supplies, health care and passenger air services, improve the connectivity of Australia's regions to domestic and global market opportunities and meet the operational requirements of aeromedical and other emergency services in the region.

The RAU seeks to enhance the safety and accessibility of aerodromes which are operated by States in remote and very remote areas. The RAI provides identified remote Indigenous communities with annual inspections of aerodromes which are operated by States, as well as related services to assist those communities to meet their aviation safety obligations.

*Territories power*

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

The RAP is intended to improve the safety of aircraft, operators and passengers using regional airports or aerodromes in Territories, which will facilitate improved delivery of essential goods and services such as food supplies, health care and passenger air services, improve the connectivity of Australia's regions to domestic and global market opportunities and meet the operational requirements of aeromedical and other emergency services in the region.

The RAU seeks to enhance the safety and accessibility of aerodromes in remote and very remote areas of Territories in Australia. The RAI provides identified remote Indigenous communities with annual inspections of aerodromes in a Territory, as well as related services to assist those communities to meet their aviation safety obligations.

*Table item 680 – Revive Live Program*

Table item 680 in Part 4 of Schedule 1AB provides legislative authority for government spending for the *Revive* Live program (*Revive* Live).

*Revive* Live is part of the Australian Government’s commitment in the 2024‑25 Budget of $216.6 million over four years from 2024-25 (and $59.9 million per year ongoing) to support original live Australian music and Australia’s arts, entertainment and cultural sector.

As part of this commitment, the funding of $8.6 million in 2024-25 is available for *Revive* Live (including $7.7 million in grant funding and $0.9 million in resourcing) to provide essential support to live music businesses, including live music venues and contemporary music festivals. This funding recognises the Australian music sector as a vibrant part of our arts and culture landscape and will support approximately 108 live music venues and 61 music festivals in local suburbs, towns and regions across the country.

A media release announcing the new program was issued on 14 May 2024 by the Minister for the Arts, the Honourable Tony Burke MP, and can be found on: https://minister.infrastructure.gov.au/burke/media-release/investing-more-australian-creative-talent-and-stories.

*Revive* Live will deliver one-off funding through an open competitive grant program delivered by the department through the Office for the Arts. It will be open for applications in the first quarter of 2024-25 to support the live music sector at a critical time of need. This funding will:

* support the long-term sustainability of presenting live Australian contemporary music and ongoing viability of live music venues;
* support live music venues and music festivals to continue operations to withstand the current operating climate, including by limiting:
  + venue closures; and
  + event cancellations;
* stimulating long-term sustainability to create a more sustainable industry; and
* allocate a minimum $1.2 million of the total funding to improve accessibility and inclusion at live music events for disabled artists and patrons by increasing both on‑site and online accessibility, such as:
  + accessible facilities (ambulant toilets, ramps)
  + pathways
  + quiet zones
  + accessible websites and easy to read text.

Eligible applicants are Australian live music businesses that have a registered Australian Business Number (ABN) and whose primary focus is the support of original live Australian music. The applicants will be able to apply for funding to:

* cover artists costs, insurance, equipment and infrastructure; and
* improve accessibility for both artists and patrons experiencing disability.

Proposals should demonstrate that activities will provide ongoing benefits to the Australian music sector.

Selection criteria will be based upon the degree to which the grant contributes to achieving the objectives and outcomes of *Revive* Live as set out in the program guidelines, which has not been yet finalised. Applicants will apply through the GrantConnect platform.

Grants will be offered to successful applicants for projects running up to 12 months. Each successful applicant will be issued with a grant agreement which will specify the agreed funding amount as well as the approved funded activities determined through the assessment process. Payments will be made in full upon execution of the grant agreement and the receipt of an invoice by the grant recipient.

*Funding amount and arrangements, merits review and consultation*

Funding of $8.6 million for the program was included in the 2024-25 Budget under the measure ‘Revive – National Cultural Policy’ for a period of one year commencing in 2024‑25. Details are set out in *Budget 2024-25, Budget Measures,* *Budget Paper No. 2* at page 151.

Funding for this item will come from Program 6.1: Revive – National Cultural Policy, which is part of Outcome 6. Details are set out in the *Portfolio Budget Statements 2024-25*, *Budget Related Paper No. 1.12, Infrastructure, Transport, Regional Development, Communications and the Arts Portfolio* at page 36.

Funding will be delivered through *Revive* Live in accordance with the PGPA Act, CGRGsand whole‑of-government processes*.*

*Revive* Live is an open competitive grant opportunity where applicants apply against eligibility and assessment criteria in accordance with the grant opportunity guidelines. The 2024-25 Budget measure included $0.9 million in departmental funding to enable the delivery of the new grants program by the department. Applicants will be able to apply for the grant through GrantConnect at: <https://www.grants.gov.au>.

The Minister for the Arts is the decision maker for all grants. Program Officers within the department will provide recommendations to the decision maker following assessment of applications against the assessment criteria and in accordance with the relevant grant opportunity guidelines. Assessment of applications will be completed by both the department and independent peer assessors from the music sector.

All relevant approvals are subject to the PGPA Act and the CGRGs. Funding decisions are made objectively, in accordance with the assessment process and eligibility criteria set out in each of the grant opportunity guidelines, and in accordance with the applicable legislative requirements under the PGPA Act and the CGRGs.

In accordance with the CGRGs, grant opportunity guidelines and information on funding decisions will be publicly available on GrantConnect at: https://www.grants.gov.au.

Merits review of decisions made in connection with the grant would not be considered appropriate because these decisions relate to the provision of a one-off grant to a certain service provider, over other service providers. 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 4.16 to 4.19 of the ARC guide).

The application and assessment processes put in place for the program will ensure that the grant opportunity process is fair and consistent with the CGRGs. According to the published guidelines and Grant Agreements with grantees, each grant opportunity will incorporate appropriate safeguards against fraud, unlawful activities and other inappropriate conduct.

Complaints about any of the grant opportunities can be made in the first instance to the department. Information about the complaints handling process is provided in the department’s Client Service Charter available at https://www.infrastructure.gov.au/about-us/corporate-reporting/client-service-charter.

If the complainant is not satisfied with the department’s handling of their matter, they can contact the [Commonwealth Ombudsman](http://www.ombudsman.gov.au/).

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the Judiciary Actmay be available. If the applicant is not satisfied with the outcome of the assessment or investigation of their complaint, they may contact the Commonwealth Ombudsman as a final recourse.

Key stakeholders from across the Australian music industry are being consulted during the development of the program guidelines. The targeted consultation process includes representatives from peak bodies, such as:

* Australasian Performing Right Association and Australasian Mechanical Copyright Owners Society (APRA AMCOS);
* Australian Festival Association (AFA);
* Australian music industry professionals involved with venues and/or festivals; and
* Federal, state and territory governments entities, such as:
  + Music Australia; and
  + The Australian Music Industry Network (AMIN) comprising state and territory music industry associations.

*Constitutional considerations*

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the following powers in the Constitution:

* the trade and commerce power (section 51(i));
* the external affairs power (section 51(xxix));
* the executive power and express incidental power (sections 61 and 51(xxxix)); and
* the territories power (section 122).

*Trade and commerce power*

Section 51(i) of the Constitution empowers the Parliament to make laws with respect to ‘trade and commerce with other countries, and among the states’.

The program will provide grant funding to live music venues and music festivals to withstand the current operating climate, limiting venue closures and event cancellations, and stimulating long-term sustainability.

*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.

*Convention on the Rights of Persons with Disabilities* (CRPD)

Australia is a party to the CRPD. Article 4 requires States Parties to the CRPD to ensure and promote the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.

Article 9 provides that State Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.

Article 30 provides that States Parties recognise the right of persons with disabilities to take part on an equal basis with others in cultural life.

The program will include a component focussed on improving accessibility for disabled artists and patrons to cultural events and venues. A minimum of $1.2 million of the total available funding will be allocated to activities that assist people with disability to take part in cultural life on an equal basis. An objective of this program is to remove barriers for people with disability participating in and attending live music events. It will do so by assisting live music venue operators and festival organisers financially support appropriate measures that will deliver inclusive events and increase both on-site and online accessibility such as accessible facilities (i.e. ambulant toilets), pathways, quiet zones, accessible websites and easy to read text.

*Executive power and express incidental power*

The express incidental power in section 51(xxxix) of the Constitution empowers the Parliament to make laws with respect to matters incidental to the execution of any power vested in the Parliament, the executive or the courts by the Constitution. Section 61 of the Constitution supports activities that are peculiarly adapted to the government of a nation and cannot be carried out for the benefit of the nation otherwise than by the Commonwealth.

The program will provide grant funding to live music venues and music festivals to support the performance of Australian music by Australian artists. The funding will support music venues and music festivals to withstand the current operating climate, limiting venue closures and event cancellations, and stimulating long-term sustainability.

*Territories power*

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

The program will provide grant funding to live music venues and music festivals to withstand the current operating climate, limiting venue closures and event cancellations, and stimulating long-term sustainability. This may involve activities that are undertaken in, or are in relation to, a Territory.

**Attachment B**

**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 (Infrastructure, Transport, Regional Development, Communications and the Arts 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 (Infrastructure, Transport, Regional Development, Communications and the Arts Measures No. 4) Regulations 2024* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on activities administered by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

This disallowable legislative instrument adds the following table items in Part 4 of Schedule 1AB:

* table item 677 ‘Strategic Fleet Pilot Program’
* table item 678 ‘Measures to Progress First Nations Digital Inclusion’
* table item 679 ‘Supporting Regional Aviation Programs’
* table item 680 ‘*Revive* Live program’.

*Table item 677 – Strategic Fleet Pilot Program*

Table item 677 establishes legislative authority for government spending on the Strategic Fleet Pilot Program (the pilot program) to enable the Australian Government to secure maritime capability to call on in times of need, such as natural disasters, crisis or conflict.

The strategic fleet is a key Government election commitment published entitled ‘Labor Will Create a Strategic Fleet to Protect Our National Security and Economic Sovereignty’ published on 3 January 2022. The primary objective of the pilot program is to provide Australia with additional tools and sovereign capabilities to respond to a broad range of disaster and disruption scenarios. The pilot program will also provide a new platform to promote and support seafarer employment and training which will strengthen Australia’s maritime capabilities.

The first stage of implementing the program will be through a five-year pilot program with three vessels. Strategic fleet vessels could be used to transport critical supplies such as fuel, food, medical supplies and munitions. Given the broad range of scenarios for which the strategic fleet could be relied upon, the pilot program will seek a range of vessel capabilities to provide the Government with flexibility in responding to crises. The department has been engaging with Commonwealth agencies most likely to use strategic fleet vessels to ensure that the fleet’s capabilities align with their needs.

Funding provided in the 2024-25 Budget is expected to achieve three outcomes:

* attract vessel operators to participate in the pilot by bridging the cost gap associated with operating an Australian flagged and crewed vessel, and costs for providing training berths to Australian seafarers;
* establish a mechanism to enable Commonwealth agencies to use strategic fleet vessels to fulfil commercial shipping needs at market rates through existing frameworks; and
* provide the Commonwealth with assured access to maritime capability in times of need through a vessel requisition.

**Human Rights Implications**

Table item 677 does not engage any of the applicable rights or freedoms.

Table item 677 is compatible with human rights as it does not raise any human rights issues.

*Table item 678 – Measures to Progress First Nations Digital Inclusion*

Table item 678 establishes legislative authority for government spending on establishing a First Nations Digital Support Hub and a network of digital mentors to progress First Nations digital inclusion.

In January 2023, the Minister for Communications established the First Nations Digital Inclusion Advisory Group (the Advisory Group) to provide expert advice to the Australian Government on achieving Target 17 of Closing the Gap which aims for equal levels of digital inclusion for First Nations Australians by 2026.

Based on the Advisory Group’s initial report (released in October 2023) the Government will provide funding to support the First Nations Digital Inclusion proposed measures:

* First Nations Digital Support Hub ($4.0 million over two years from 2024-25):

providing national support, including online and via telephone, to improve the digital ability of First Nations consumers and communities.

* A network of digital mentors ($18.0 million over three years from 2024-25):

engagement of community members to provide permanent, ongoing and tailored digital inclusion support in their communities.

Table item 678 will be funded from a combination of the Better Connectivity Plan for Regional and Rural Australia (administered by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts) and the Indigenous Advancement Strategy (administered by the National Indigenous Australians Agency).

**Human rights implications**

Table item 678 engages Article 19 of the International Covenant on Civil and Political Rights (ICCPR) that sets out the rights to freedom of opinion and expression, read with Article 2.

Table item 678 is being implemented in response to the National Agreement of Closing the Gap and specifically Outcome and Target 17; which states that Aboriginal and Torres Strait Islander people have access to information and services enabling participation in informed decision making regarding their own lives. This aligns with/to the international Articles below:

Article 2 of the ICCPR requires that each State Party undertakes to respect and ensure the rights recognised in the ICCPR, adopt laws or other measures to give effect to these rights, and ensure an effective remedy to any person whose rights recognised in the ICCPR are violated.

Article 19.2 states that **‘**Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.’

The right to freedom of expression includes the right to receive and impart information of all kinds through any medium, including media and broadcasting.

Table item 678 promotes this right by supporting initiatives which aim to preserve access to internet in which such access may otherwise be rendered unavailable.

Table item 678 is compatible with human rights because it promotes the protection of human rights.

*Table item 679 – Supporting Regional Aviation Programs*

Table item 679 establishes legislative authority for government spending for the Supporting Regional Aviation Programs which combines three regional airport programs.

*Regional Airports Program* (RAP)

The RAP is a rounds-based competitive grant program which supports works to improve the safety of aircraft, operators and passengers using regional airports or aerodromes, facilitates improved delivery of essential goods and services such as food supplies, health care and passenger air services, improves the connectivity of Australia's regions to domestic and global market opportunities and meet the operational requirements of aeromedical and other emergency services in the region.

Funding of $40.0 million is provided to extend the RAP.

*Remote Airstrip Upgrade Program* (RAU)

The RAU is a competitive grant program, established in 2011, the objectives of which are to enhance the safety and accessibility of aerodromes in remote and very remote areas of Australia. The RAU improves access to work and education opportunities, helps connect residents of remote communities and facilitates the provision of aeromedical services such as the Royal Flying Doctor Service (RFDS).

Additional funding of $50.0 million is available for the RAU over three years commencing in 2024-25 which will allow the RAU to be expanded to also support access for people with disability at remote airstrips.

*Remote Aerodrome Inspection Program* (RAI)

The RAI provides identified remote Indigenous communities across Northern Australia with annual aerodrome inspections and related services to assist those communities to meet their aviation safety obligations.

The RAI has received $0.5 million per year ongoing from 2024-25 and indexed funding from 2025-26 to provide technical aerodrome inspection services, aerodrome reporting officer training and ad hoc aviation technical advice.

**Human rights implications**

Table item 679 engages the following rights:

* right of everyone to an adequate standard of living including food, clothing and housing – Article 11 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR)read with Article 2;
* right of everyone to the enjoyment of the highest attainable standard of physical and mental health - Article 12 of the ICESCR read with Article 2;
* right of everyone to education – Article 13 of the ICESCR read with Article 2;
* right to liberty of movement – Article 12 of the ICCPR read with Article 2; and
* rights of people with disability - Articles 4, 9 and 30 of the *Convention on the Rights of Persons With Disabilities* (CRPD).

Article 2 of the ICESCR states that each State Party 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.

*Right to an adequate standard of living*

Article 11(1) of the ICESCR states that the States Parties reciognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international cooperation based on free consent.

Table item 679 supports the right to an adequate standard of living by facilitating access via air to essential services including food, clothing, health care and medical supplies, particularly during periods of disruption where other transport modes may not be able to access communities. Accessible and upgraded community airstrips bring about improved opportunities for employment, health, education and a general standard of living for the individual as well as community.

*Right to health*

Article 12(1) of the ICESCR provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Table item 679 support the right to health by facilitating access, through airport safety works to ensure that the RFDS and other aeromedical providers can use the airport or airstrip to service the health care needs of remote and regional communities. The aeromedical provides provide both emergency services and clinics via air to these communities. Passengers are also able to fly to locations for medical treatment including maternity patients and people with chronic conditions.

*Right to education*

Article 13 of the ICESCR states that the States Parties recoginse the right of everyone to education.

Table item 679 supports access to education by providing safe and accessible airstrips and airports to enable the delivering of educational materials, education service providers, as well as transporting students to education in other locations.

*Right to freedom of movement*

Articles 12 of the ICCPR provides a right to liberty of movement. The regional programs support this right by supporting airports and air services to connect people in regional and remote locations access goods, services, cultural aspects, travel and medical care. The programs support their freedom of movement.

*Rights for people with disability*

Articles 4, 9, 19 and 20 of the *Convention on the Rights of Persons With Disabilities* (CRPD) support the rights for people with disability to live independently and participate fully in all aspects of life.

Table item 679 particularly for the RAU supports improved access including for people with disability to air services by providing safe and accessible airstrips and airports and infrastructure improvements to support travel for people with disability.

Table item 679 also supports the National Agreement of Closing the Gap including Outcome and Targets: (1) Everyone enjoys long and healthy lives; (2) Children are born healthy and strong; (6) Students reach their full potential through further education pathways; and (8) Strong economic participation and development of people and their communities.

Table item 679 is compatible with human rights because it promotes the protection of human rights.

*Table item 680 – Revive Live Program*

Table item 680 establishes legislative authority for government spending for the *Revive* Live Program (*Revive* Live) to provide essential support to live music venues and contemporary music festivals, including improved accessibility for disabled artists and patrons.

Funding of $8.6 million (including $7.7 million in grants and $0.9 million in resourcing) over one year from 2024-25 is provided under *Revive* Live to organisations whose primary focus is the delivery of Australian music through either live music venues or music festivals.

Table item 680 will provide grant funding to live music venues and music festivals to withstand the current operating climate, limiting venue closures and event cancellations, and stimulating long-term sustainability. Funding will be available for a range of activities including artist performance fees, infrastructure and equipment purchases as well as training for staff.

**Human rights implications**

This table item engages the following rights:

* in Articles 1, 6 and 15 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), read with Article 2, the right to:
  + freely pursue economic, social and cultural development;
  + gain a living through freely chosen work including the right to technical and vocational guidance and training; and
  + take part in cultural life, to benefit from the protection of moral and material interests resulting from artistic production, and in recognition of the benefits of encouraging and developing international contacts and co-operation in creative fields;
* in Articles 2, 3 and 11 of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) the right to:
  + equality of men and women including the elimination of all discrimination against women;
  + the full development and advancement of women; and
  + employment opportunities and vocational training for women;
* in Article 5 of the *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD) the right to:
  + free choice of employment;
  + education and training; and
  + equal participation in cultural activities;
* in Article 27 of the *International Covenant on Civil and Political Rights* (ICCPR), read with Article 2, the right of ethnic, religious or linguistic minorities to enjoy their own culture and use their own language in community with other members of their group; and
* in Articles 4, 9 and 30 of the *Convention on the Rights of Persons With Disabilities* (CRPD) the right:
  + for people with disability to live independently and participate fully in all aspects of life; and
  + to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities.

*Revive* Live forms part of the Government’s $216.6 million investment to further support Australia’s arts, entertainment and cultural sector under the Revive - National Cultural Policy. *Revive* Live aligns with the Revive - National Cultural Policy which meets several human rights obligations defined in the international treaties such as the CERD, CEDAW and CRPD.

Table item 680 will support the growth of contemporary music in Australia and creates more opportunities for Australian artists to undertake cultural and artistic endeavours and compete in a global industry. *Revive* Live recognises that the music sector makes a significant contribution to Australia’s cultural economy, and is designed to boost professional skills and build capacity across the workforce of the music industry.

*Revive* Live will promote economic, social and cultural rights through the provision of development, training, business and participation outcomes for Australian artists and music industry professionals.

*Right to enjoy and benefit from culture*

Table item 680 will support the production and promotion of original Australian music, engaging the right to take part in cultural life and to fully realise this through the development and diffusion of culture (ICESCR, Articles 6(1), 6(2), 15(1)(a) and 15(2)).

Article 2 of ICESCR states that each State Party undertakes to respect and ensure the rights recognised in the ICESCR, adopt laws or other measures to give effect to these rights, and ensure an effective remedy to any person whose rights recognised in the ICESCR are violated.

Article 6(1) of ICESCR states that States Parties recoginse the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

Article 6(2) of ICESCR states that State Parties will provide measures which shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 15(1)(a) of ICESCR states that State Parties need to recognise the right of everyone to take part in cultural life. Article 15(2) of ICESCR states that States Parties will take necessary steps to achieve the full realisation of this right shall include those necessary for the conservation, the development and the diffusion of cultural events.

With an emphasis on training and employment outcomes for individuals along with economic outcomes for businesses and industry organisations, item 680 also promotes the right to benefit from the protection of the moral and material interests resulting from artistic production (ICESCR, Article 15(1)(c)). Article 15(1)(c) of ICESCR states that State parties will take the necessary steps in protecting the moral and material interests of which they are the owner.

Article 2 of ICCPR states that State Parties will undertake endeavours through legislative or other measures to respect and ensure the rights of all individuals within its territory.

Article 27 of ICCPR states that persons ethnic, religious or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Article 5(e)vi of CERD states that States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the right to equal participation in cultural activities.

Furthermore, *Revive* Live is designed to be inclusive, representing a diversity of peoples who practise in a wide range of musical genres and communities, which promotes the right of ethnic and/or linguistic minorities to enjoy their own culture and use their own language by supporting venues and festivals hosting Cultural and Linguistically Diverse performances (CERD, Article 5(e)vi and ICCPR, Article 27).

Article 4 of the CRP states that States Parties undertake to ensure and promote the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.

Article 9 of the CRPD states that to enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public.

Article 30 of the CRPD State parties recognise the right of people with disabilities to engage in all aspects of cultural participation including cultural materials in accessible formats and enjoying access to cultural events.

Participating in live music has important social and economic benefits for workers and audiences with disability. In accordance with Articles 4, 9 and 30 of the CRPD this proposal seeks to invest a minimum of $1.2 million in funding towards removing barriers for people with disability participating in and attending live music events. This funding will assist live music venue operators and festival organisers take appropriate measures to deliver inclusive events, and increase both on-site and online accessibility such as accessible facilities (i.e. ambulant toilets), pathways, quiet zones, accessible websites and easy to read text.

*Right to self-determination*

Article 1 of the ICCPR and Article 1 of the ICESCR states that all peoples have the right of self-determination so they can freely pursue their own economic and cultural development.

Table item 680 will provide financial support to Australian businesses and music industry organisations, promoting the right to economic development (ICESCR, Article 1(1), ICCPR, Article 1(1)). The initiative is also designed to encourage and support more performances of live Australian music by Australian artists, thereby promoting the right to cultural development (ICESCR, Article 1(1), ICCPR, Article 1(1)).

*Right to work and rights in work*

Article 2 of the CEDAW states that State Parties will condemn discrimination against women in all its forms by taking appropriate measures to eliminate discrimination and ensuring equal rights of women in legislation.

Article 3 of the CEDAW states that State Parties shall take all appropriate measures to ensure the full development and advancement of women in cultural fields.

Article 11 of the CEDAW States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work.

*Revive* Live will support the implementation of Australia’s obligations under the CEDAW, in particular: Articles 2, 3 and 11, by providing the opportunity for professional career development and training in the Australian music industry inclusive of all genders.

Table item 680 also offers employment opportunities inclusive of all genders across all aspects of the music industry from sound technicians to event promoters and management positions that will increase the representation of women in the live music industry. Such opportunities can empower women to navigate career and leadership pathways in the Australian music industry, as well as develop general professional decision-making, governance, commercial and corporate engagement skills.

Table item 680 is compatible with human rights because it engages and 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**