

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Climate Change and Energy

Industry Research and Development Act 1986

Industry Research and Development (Accelerated Connections Fund Program) Instrument 2025

Purpose and Operation

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

The Minister for Industry and Science has delegated, under subsection 33(6) of the Act, the Minister's power under subsection 33(1) to prescribe the Accelerated Connections Fund Program (the Program) to the Minister responsible for administering the *Australian Energy Market Act 2004*. This is currently the Minister for Climate Change and Energy.

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

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

The purpose of the *Industry Research and Development (Accelerated Connections Fund Program) Instrument 2025* (the Legislative Instrument) is to prescribe the Program.

The funding for the Program has been secured through the Department of Climate Change, Energy, the Environment and Water (the DCCEEW) *2024-25 Mid-Year Economic and Fiscal Outlook, Climate Change, Energy, the Environment and Water Portfolio* at page 223. The Program has been provided with \$10.1 million as part of the Australian Government's commitment to help reduce bottlenecks and accelerate the connection of new renewable generation.

The Program will provide a closed non-competitive grant to the Australian Energy Market Operator (AEMO) to expedite grid connection for new critical renewable generation and

clean storage projects, in partnership with relevant Transmission Network Service Providers (TNSPs). The Program will provide \$8.899 million during 2025-26 to AEMO.

TNSPs are businesses that build, maintain, and operate the transmission networks that transport electricity from generators to load centres, and are defined in the National Electricity Rules (the NER) as at 19 December 2024.

The objective of the Program is to expedite the connection process of new critical renewable generation and clean storage projects across the National Electricity Market (the NEM). The NEM is a wholesale market through which generators and retailers trade electricity in Australia. It interconnects New South Wales, the Australian Capital Territory, Queensland, South Australia, Victoria and Tasmania, and delivers around 80% of all electricity consumption in Australia.

A ‘connection’ is the process by which, according to the NER, a generator forms a physical connection with the electricity network to supply electricity to the NEM.

The Program will expedite the grid connection process for new critical renewable generation and clean storage projects in Australia’s energy transition. The Program’s fund aims to fast-track the connection of renewable energy generation (such as solar and wind) and storage (such as battery storage) projects by addressing current delays and improving the efficiency of grid access, which is crucial for meeting Australia’s renewable energy and emissions reduction goals.

The Program seeks to accelerate connections in the pre-feasibility, enquiry, application, contracts, construction and completion phases of a project. Additionally, it aims to enhance the reliability of the NEM, and to reduce the risk of bottlenecks as the Capacity Investment Scheme and state and territory supported connections progress toward full operation. The Capacity Investment Scheme is an Australian Government revenue underwriting scheme accelerating investment in renewable energy generation and clean dispatchable capacity, such as battery storage.

AEMO will be the only recipient of the Program. AEMO will be involved in all connections, regardless of geographic location, and will manage payments to TNSPs in each state and territory. AEMO, as the operator of the NEM, is uniquely positioned to manage and facilitate the acceleration of grid connections. The nature of the grant activity is specifically dependant on AEMO’s expertise and AEMO is the only entity capable of delivering the grant activity system wide across the NEM.

AEMO, in consultation with TNSPs, will identify new critical renewable generation and clean storage projects recommended for accelerating. A committee, established by DCCEE, will decide which connections will be approved. The committee will comprise departmental officials and draw on independent expert advice where required. Relevant considerations the committee will account for in selecting critical connections will be detailed in the Grant Opportunity Guidelines once published.

Connections for selected projects will be accelerated by increased staffing resourcing for AEMO and TNSPs dedicated to the connection process. Eligible activities will include those which directly relate to the project and must include AEMO, in conjunction with relevant TNSPs in each state or territory, determining and applying additional resourcing to ensure the

acceleration of connections. Each proposed connection will involve AEMO and the relevant TNSP.

The Program is administered by the Business Grants Hub in the Department of Industry, Science and Resources, supported by DCCEEW as the policy lead, in accordance with the requirements of the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* and the *Commonwealth Grants Rules and Principles 2024*.

The Program is a one-off, closed non-competitive grant to the identified eligible recipient. The grant is subject to a satisfactory proposal that includes the required elements. The grant proposal requirements and assessment criteria will be detailed in the Grant Opportunity Guidelines once published.

The decision maker will be the Minister for Climate Change and Energy. The decision maker will decide whether to approve the grant.

As the Program is a closed non-competitive program that supports the implementation of policy decisions made by the Government, the Program will not be subject to merits review. Merits review of the Program would not be appropriate because decisions will relate to the provision of non-competitive closed grants to a unique service provider with no market competitors. The allocation of this grant therefore reflects a budgetary decision of a policy nature made by the Government to fund this Program. The Administrative Review Council has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see item 4.18 of *What decisions should be subject to merits review?* <https://www.ag.gov.au/legal-system/publications/what-decisions-should-be-subject-merit-review-1999>). This instrument will instead be subject to parliamentary scrutiny.

The review and audit process undertaken by the Australian National Audit Office also provides a mechanism to review Australian Government spending decisions and report any concerns to the Parliament. These requirements and mechanisms help to ensure the proper use of Commonwealth resources and appropriate transparency around decisions relating to making, varying or administering arrangements to spend relevant money.

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the *Judiciary Act 1903* may be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

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

Statement of the Relevance and Operation of Constitutional Heads of Power

For the purposes of subsection 33(3) of the Act, the Legislative Instrument specifies the legislative powers of the Parliament to make laws with respect to external affairs (within the meaning of section 51(xxvii) of the Constitution).

External affairs power

Section 51(xxix) of the Constitution gives the Commonwealth Parliament power to make laws with respect to ‘external affairs.’ The external affairs power supports legislation implementing Australia’s international obligations under treaties to which it is a party. Australia has obligations relevant to this legislative instrument under the following treaties:

- (i) the United Nations Framework Convention on Climate Change done at New York on 9 May 1992 ([1994] ATS 2) (United Nations Framework Convention on Climate Change), particularly Article 4.
- (ii) the Kyoto Protocol to the United Nations Framework Convention on Climate Change done at Kyoto on 11 December 1997 ([2008] ATS 2) (Kyoto Protocol), particularly Article 10;
- (iii) the Paris Agreement done at Paris on 12 December 2015 ([2016] ATS 24) (Paris Agreement), particularly Article 4; and

The United Nations Framework Convention on Climate Change includes a range of obligations on Australia to take domestic actions that reduce Australia’s emissions of greenhouse gases. Relevantly, it provides that parties shall:

- formulate, implement, publish and regularly update national and, where appropriate, regional programs containing measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol on Substances that Deplete the Ozone Layer done at Montreal on 16 September 1987 ([1989] ATS 18)), and measures to facilitate adequate adaptation to climate change;¹
- promote and cooperate in the development, application and diffusion of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases in all relevant sectors including energy, transport, industry, agriculture, forestry and waste management sectors;² and
- adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs.³

The Kyoto Protocol includes obligations on Australia to take action to reduce emissions. For example, Article 10(b) requires parties to formulate, implement and report upon climate change mitigation and adaptation programs.

The Paris Agreement was entered into by the parties to the United Nations Framework Convention on Climate Change to enhance its implementation. Under the Paris Agreement, Australia has a “nationally determined contribution”, comprising a 2030 emissions reduction target of 43 per cent below 2005 levels and net zero emissions by 2050. Australia’s

¹ See Article 4.1(b).

² See Article 4.1(c).

³ See Article 4.2(a).

greenhouse gas emission reduction targets, which reflect its nationally determined contribution, have been legislated in the *Climate Change Act 2022*. Relevantly, Article 4.2 of the Paris Agreement provides that “[e]ach Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve” and that “[p]arties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions”.

The Program prescribed by the Legislative Instrument will facilitate the achievement of emissions abatement obligations by accelerating the connection of new critical renewable generation and clean storage projects, which help to replace existing fossil fuel generators.

Further details on the Legislative Instrument are set out in Attachment A.

Background

In 2023 and 2024, the DCCEEW and AEMO conducted the Summer Readiness Trial, which involved additional dedicated resourcing for AEMO to support the connection of dispatchable and variable renewable energy projects. The Summer Readiness Trial reduced commissioning timeframes by 53%.

The Program was developed with regard to lessons learned in the implementation of this trial and input from TNSPs.

The Program will reduce wholesale prices, lower inflationary pressure and provide consumer cost of living relief while driving progress toward the 2030 renewable electricity target and Net Zero by 2050.

Authority

Section 33 of the Act provides authority for the Legislative Instrument.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, the DCCEEW consulted the Attorney-General’s Department and the Department of Industry, Science, and Resources on this Legislative Instrument.

The DCCEEW has consulted AEMO on program design and administration. AEMO are supportive of the Program.

The Program takes into account recommendations from AEMO based on participant input from TNSPs, original equipment manufacturers, and renewable energy proponents, and lessons learned from the 2023-24 Summer Readiness Pilot, including a stronger emphasis on semitechnical participation.

As the Program has undergone consultation with AEMO, it was considered unnecessary to undertake additional consultation with AEMO in relation to the Legislative Instrument.

Incorporation by reference

National Electricity Rules

The NER govern the operation of the NEM. The NER exist so that market participants understand their rights and responsibilities, and there is appropriate regulation so that consumers do not pay more than necessary for their electricity.

The NER are made by the Australian Energy Market Commission (AEMC) under the National Electricity Law and have the force of law. AEMC was established in 2005 by the South Australian parliament under the *Australian Energy Market Commission Establishment Act 2004* (South Australia).

The NER came into effect on 1 July 2005. The NER are freely available at <https://www.aemc.gov.au/regulation/energy-rules/national-electricity-rules>.

The NER are incorporated by reference in the Legislative Instrument as in force from time to time. Section 10A of the *Acts Interpretation Act 1901* (as applied by paragraph 13(1)(a) of the *Legislation Act 2003*) has the effect that references to State and Territory Acts can be references to versions of those Acts as in force from time to time.

National Electricity Law

The National Electricity Law (NEL) governs AEMC's statutory powers in relation to the NEM. The NEL is contained in a Schedule to the *National Electricity (South Australia) Act 1996* (South Australia), which applies as law in each participating jurisdiction of the NEM by application statutes.

The NEL came into effect on 1 July 2005. The NEL is freely available at <https://www.aemc.gov.au/regulation/legislation>.

The NEL is incorporated by reference in the Legislative Instrument as in force from time to time. Section 10A of the *Acts Interpretation Act 1901* (as applied by paragraph 13(1)(a) of the *Legislation Act 2003*) has the effect that references to State and Territory Acts can be references to versions of those Acts as in force from time to time.

Impact Analysis

The Office of Impact Assessment advises that no Regulation Impact Statement is required (OIA reference number OIA24-08074).

Other

The Legislative Instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

Details of the *Industry Research and Development (Accelerated Connections Fund Program) Instrument 2025*

Section 1 – Name

1. This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Accelerated Connections Fund Program) Instrument 2025* (the Legislative Instrument).

Section 2 – Commencement

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

Section 3 – Authority

3. This section specifies that the Legislative Instrument is made under section 33 of the *Industry Research and Development Act 1986* (the Act).

Section 4 – Definitions

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

Section 5 – Prescribed Program

5. This section prescribes the Accelerated Connections Fund Program (the Program) for the purposes of subsection 33(1) of the Act.
6. The purpose of the Program is to provide a closed non-competitive grant to the Australian Energy Market Operator, in partnership with the Transmission Network Service Providers, to expedite grid connection process for new critical renewable generation and clean storage projects in the National Energy Market (NEM).
7. The objective of the program is to expedite the connection process for new critical renewable generation and clean storage projects in the NEM. The program's intended outcomes are to enhance reliability in the NEM, reduce wholesale energy prices, and contribute to emissions reduction and the decarbonisation of the electricity generation sectors by contributing toward the Government's target of 82% renewable electricity in the NEM by 2030.

Section 6 – Specified Legislative Power

8. This section specifies that the legislative power in respect of which the Legislative Instrument is made is the power of the Parliament to make laws with respect to external affairs.

Statement of Compatibility with Human Rights

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

Industry Research and Development (Accelerated Connections Fund Program) Instrument 2025

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the *Industry Research and Development (Accelerated Connections Fund Program) Instrument 2025* (the Legislative Instrument) is to prescribe the Accelerated Connections Fund (the Program). The Program provides a closed non-competitive grant to the Australian Energy Market Operator, in partnership with the Transmission Network Service Providers, to expedite grid connection process for new critical renewable generation and clean storage projects in the National Energy Market (NEM). The Program's intended outcomes are to enhance reliability in the NEM, reduce wholesale energy prices, and contribute to emissions reduction and the decarbonisation of the electricity generation sectors by contributing toward the Government's target of 82% renewable electricity in the NEM by 2030.

Human rights implications

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

Conclusion

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

**The Hon Chris Bowen MP
Minister for Climate Change and Energy**