

## **EXPLANATORY STATEMENT**

Issued by authority of the Minister for Emergency Management

*Social Security Act 1991*

### ***Social Security (Australian Government Disaster Recovery Payment—North Queensland Floods) Determination (No. 5) 2025***

#### **Legislative Authority**

The Australian Government Disaster Recovery Payment (AGDRP) provides an immediate, one-off payment to a person adversely affected by a major disaster.

Section 1061K of the *Social Security Act 1991* (the Act) specifies the qualification criteria for the AGDRP. One of the qualification criteria requires a person to be ‘adversely affected by a major disaster’.

Subsection 1061L(1) of the Act provides that, for the Act, a person is adversely affected by a major disaster if the person is affected by the major disaster in a way determined by the Minister.

Subsection 1061L(2) of the Act provides that the Minister may determine in writing, for a major disaster, the circumstances in which persons are to be taken to be adversely affected by the major disaster.

Subsection 36(1) of the Act empowers the Minister to determine in writing that an event is a major disaster if the Minister is satisfied that an event is a disaster that has such a significant impact on individuals that a government response is required, or the event is an emergency to which a national emergency declaration relates.

#### **Background**

On 4 February 2025 the Minister for Emergency Management made a determination under subsection 36(1) of the Act that the North Queensland floods that commenced on 29 January 2025, and significantly affected the localities of Cardwell and Giru, and the local government area (LGA) of the Shire of Hinchinbrook, are a major disaster.

On 7 February 2025, the Minister made a further determination under subsection 36(1) of the Act to determine that the major disaster also extends to; Carruchan, Ellerbeck and Wongaling Beach in the Cassowary Coast Region LGA; Balgal Beach, Bluewater Park, and Paluma in the Townsville City LGA; and Paluma in Charters Towers Region LGA.

A further determination was made on 20 February 2025 by the Minister under subsection 36(1) of the Act that the major disaster also includes the suburbs/localities of Kennedy and South Mission Beach in Cassowary Coast Region LGA and the suburbs/localities of Annandale, Belgian Gardens, Heatley, Hermit Park, Rows Bay, Vincent and Wulguru in the Townsville City LGA.

An additional determination was made on 24 February 2025 by the Minister under subsection 36(1) of the Act that the major disaster also includes the locality of Groper Creek in the Shire of Burdekin LGA and the suburbs/localities of Black River, Condon, Cosgrove, Cranbrook, Cungulla, Currajong, Garbutt, Gulliver, Horseshoe Bay (Magnetic Island), Mundingburra, Mutarnee, Nelly Bay (Magnetic Island), Nome, North Ward, Oak Valley, Oonoonba, Picnic Bay (Magnetic Island), Railway Estate, Rasmussen, Roseneath, South Townsville, Toolakea, and Townsville City in the Townsville City LGA.

The *Social Security (Australian Government Disaster Recovery Payment—North Queensland Floods) Determination (No. 5) 2025* (the Determination) sets out the circumstances in which a person is ‘adversely affected’ by this major disaster for AGDRP purposes.

The Determination repeals and replaces the *Social Security (Australian Government Disaster Recovery Payment—North Queensland Floods) Determination (No. 4) 2025*, to also include the locality of Georgetown in the Shire of Etheridge LGA, additional suburbs/localities of Damper Creek and Rungoo in the Cassowary Coast Region LGA, and Bluewater in Townsville City LGA.

### **Notes on clauses of the Determination**

Section 1 sets out the name of the Determination.

Section 2 provides that the Determination commences immediately after it is signed. For section 12 of the *Legislation Act 2003*, the Determination may commence before it is registered as it will not disadvantage any persons adversely affected by the major disaster.

Section 3 provides that the Determination is made under subsection 1061L(2) of the Act.

Section 4 provides definitions relevant to the Determination, including *Act*, *destroyed*, *immediate family member*, *major asset or assets*, *major damage*, *seriously injured*, and *principal place of residence*.

Subsection 5(1) provides that the Determination applies to the major disaster being the floods in North Queensland that commenced on 29 January 2025, continue through February and March 2025, and have affected or affects the areas mentioned in Schedule 1.

Subsection 5(2) provides that the circumstances in which a person is taken to be adversely affected by the major disaster mentioned in subsection 5(1) are if:

- the person is seriously injured as a direct result of the major disaster (paragraph 5(2)(a)); or
- the person is an immediate family member of an Australian citizen or resident who is missing and presumed killed or killed as a direct result of the major disaster (paragraph 5(2)(b)); or
- the person's principal place of residence has been destroyed or has major damage as a direct result of the major disaster (paragraph 5(2)(c)); or
- a major asset or assets of the person has or have been destroyed or suffered major damage as a result of the major disaster; or
- the person is a carer of a child to whom paragraphs 5(2)(a), (b), (c) or (d) apply (paragraph 5(2)(e)).

Section 6 provides for:

- the repeal of *Social Security (Australian Government Disaster Recovery Payment—North Queensland Floods) Determination (No. 4) 2025* upon commencement of the Determination; and
- the repeal of the Determination two years after it commences.

The automatic repeal of the Determination two years after commencement will not affect review rights for applications for the AGDRP lodged within the claiming period, or those who have made late claims with exceptional circumstances prior to the repeal of the Determination. Any review of decisions made on AGDRP applications will be decided based on the Determination in force at the time of the application.

Schedule 1 to the Determination sets out the areas affected by the floods.

### **Consultation**

The National Emergency Management Agency (NEMA) consulted with the Queensland Reconstruction Authority and other relevant Queensland authorities on the impact of the major disaster and affected areas.

Information about the support made available to individuals affected by this event will be made available on NEMA's website.

### **Other matters**

Subsection 1061L(3) of the Act provides that a determination made under section 1061L is a legislative instrument. Subsection 1061L(3) of the Act provides that section 42 of the *Legislation Act 2003* does not apply to it. The Determination is therefore exempt from disallowance by the Parliament, in accordance with subsection 44(2) of the *Legislation Act 2003*.