# EXPLANATORY STATEMENT

## Issued by authority of the Minister for Finance

 *Public Governance, Performance and Accountability Act 2013*

*Public Governance, Performance and Accountability Rule 2014*

*Public Governance, Performance and Accountability Amendment (CEA Technologies Pty Limited) Rules 2025*

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) set out a framework for regulating resource management by Commonwealth entities and companies.

Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters giving effect to the Act.

Under subsection 33(3) of the *Acts Interpretation Act 1901,* where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

The *Public Governance, Performance and Accountability Amendment (CEA Technologies Pty Limited) Rules 2025* (the Amendment Rules) amends section 5 of the PGPA Rule to prescribe a new government business enterprise for the purposes of the PGPA Act. The Amendment Rules prescribe CEA Technologies Pty Limited (CEA Technologies), a Commonwealth company for the purposes of the finance law, as a government business enterprise for section 8 of the PGPA Act.

The Amendment Rules reflect the Government’s decision, as announced on 27 April 2023, to enter an agreement to acquire an ownership interest in CEA Technologies. As advised in this announcement the decision included that the company would be prescribed to be a government business enterprise after it became a Commonwealth company.

The Amendment Rules are subject to section 48A of the *Legislation Act 2003*, which automatically repeals legislative instruments whose only effect is to amend or repeal one or more other legislative instruments.

The principal instrument amended by the Amendment Rules, the PGPA Rule, is exempt from sunsetting pursuant to paragraph 54(2)(b) of the *Legislation Act 2003*, which provides that instruments prescribed are not subject to sunsetting. Further details on the basis for the exemption from sunsetting can be found in the Explanatory Statement to the *Legislation (Exemptions and Other Matters) Amendment (2023 Measures No. 1) Regulations 2023* which amended the *Legislation (Exemptions and Other Matters) Regulations 2015* and provided for the exemption.

The Amendment Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Amendment Rules are set out in Attachment A. A statement of compatibility with human rights is at Attachment B.

The whole of the instrument commences on the day after it is registered.

**Consultation**

The amendments relating to prescribing CEA Technologies as a government business enterprise for the purposes of the PGPA Act were developed in consultation with the company and the Department of Defence.

The Amendment Rules were drafted by the Office of Parliamentary Counsel.

**ATTACHMENT A**

**Details of the *Public Governance, Performance and Accountability Amendment (CEA Technologies Pty Limited) Rules 2025***

**Section 1 – Name of instrument**

This section states that the name of this instrument is the *Public Governance, Performance and Accountability Amendment (CEA Technologies Pty Limited) Rules 2025* (the Amendment Rules)*.*

**Section 2 – Commencement**

This section provides that the whole of the instrument commences on the day after it is registered.

**Section 3 – Authority**

This section provides that this instrument is made under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

**Section 4—Schedules**

This section provides that the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) is amended as set out in Schedule 1 to this instrument.

**Schedule 1**

*Public Governance, Performance and Accountability Rule 2014*

**Item 1 – After paragraph 5(2)(h)**

This item adds CEA Technologies Pty Limited (ACN 059 951 183) to the list of Commonwealth entities and companies that are prescribed as a government business enterprise for purposes of the definition in section 8 of the PGPA Act. CEA Technologies Pty Limited (CEA Technologies) is one of eight Commonwealth companies identified as a government business enterprise for section 8 of the PGPA Act.

The revised Explanatory Memorandum for the bill that became the PGPA Act stated that: “A government business enterprise (GBE) is any Commonwealth entity or Commonwealth company prescribed by the rules for the purpose of the definition”. Commonwealth entities or companies that exhibit commercial behaviours with strong entrepreneurial expertise in their governance are candidates for GBE status.

On 28 July 2023, the Commonwealth acquired a non-controlling shareholding in CEA Technologies. On 28 January 2025, the Commonwealth acquired a majority shareholding in CEA Technologies and the company became a Commonwealth company for the purposes of section 89 of the PGPA Act.

The Commonwealth’s shareholding in CEA Technologies is jointly overseen by the Minister for Finance and the Minister for Defence.

**ATTACHMENT B**

### Statement of Compatibility with Human Rights

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

***Public Governance, Performance and Accountability Amendment
(CEA Technologies Pty Limited) Rules 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 *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) establish a framework for regulating resource management by Commonwealth entities and companies. Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters giving effect to the Act.

The *Public Governance, Performance and Accountability Amendment (CEA Technologies Pty Limited) Rules 2025* (Amendment Rules) amends section 5 of the PGPA Rule to prescribe a new government business enterprise for the purposes of the PGPA Act.

The Amendment Rules prescribe the Commonwealth company CEA Technologies Pty Limited as a government business enterprise, effective on the day the after the instrument is registered.

The Amendment Rules accord with the decision of government for CEA Technologies Pty Limited to be a government business enterprise after it became a Commonwealth company for section 89 of the PGPA Act.

### Human rights implications

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

### Conclusion

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

**Senator the Hon Katy Gallagher**

**Minister for Finance**