

EXPLANATORY STATEMENT

Issued by authority of the Minister for Emergency Management

Social Security Act 1991

Social Security (AGDRP—NSW East Coast Severe Weather and Flooding) Determination (No. 3) 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 26 May 2025, the Minister for Emergency Management made a determination under subsection 36(1) of the Act that the severe weather and flooding in the east coast region of New South Wales (NSW) that commenced on 18 May 2025, and has affected or is affecting the local government areas (LGA) of Bellingen, Coffs Harbour, Dungog, Kempsey, Maitland, Mid-Coast, Nambucca Valley, Port Macquarie-Hastings and Port Stephens, is a major disaster within the meaning of the Act.

On 28 May 2025, the Minister made a further determination under subsection 36(1) of the Act to include the LGAs of Central Coast and Lake Macquarie.

On 3 June 2025, the Minister made a further determination under 36(1) of the Act to include the LGA of Newcastle.

The *Social Security (AGDRP—NSW East Coast Severe Weather and Flooding) Determination (No. 3) 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 *Social Security (AGDRP—NSW East Coast Severe Weather and Flooding) Determination (No. 2) 2025*, to also include the LGA of Newcastle.

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 NSW East Coast severe weather and flooding that commenced on 18 May 2025, and which has affected or is affecting one or more of the areas listed 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 the *Social Security (AGDRP—NSW East Coast Severe Weather and Flooding) Determination (No. 2) 2025* upon commencement of the Determination; and
- the repeal of the Determination two years after it commences.

Neither the repeal of the previous Determination nor the automatic repeal of this Determination after two years will 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 affected locations in the east coast region of New South Wales affected, for the purposes of this instrument, by severe weather and flooding.

Consultation

The National Emergency Management Agency (NEMA) consulted with the relevant authorities in NSW on impact.

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*.