

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

Financial Framework (Supplementary Powers) Amendment (Climate Change, Energy, the Environment and Water Measures No. 3) Regulations 2025

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 sunseting under section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (item 28A). If the Principal Regulations were subject to the sunseting 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 FFSP Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the FFSP Act.

The *Financial Framework (Supplementary Powers) Amendment (Climate Change, Energy, the Environment and Water Measures No. 3) Regulations 2025* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on the Local Environmental Projects Program (the program). The program will be administered by the Department of Climate Change, Energy, the Environment and Water.

The program responds to the Government's election commitment to deliver targeted projects to help Australian communities care for nature and Australia's heritage. The program will deliver a range of activities such as habitat remediation, weed treatment, heritage conservation, revegetation and debris removal along riverbanks and creeks, improving wildlife care facilities and capital works.

Funding of \$87.5 million will be provided over four years from 2025-26 for the program to improve biodiversity outcomes which include protection and restoration of degraded ecosystems, maintaining viable populations of species in their natural environment and promoting recovery of threatened and native species.

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 taken place with the Department of Climate Change, Energy, the Environment and Water.

Details of the *Financial Framework (Supplementary Powers) Amendment (Climate Change, Energy, the Environment and Water Measures No. 3) Regulations 2025*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Climate Change, Energy, the Environment and Water Measures No. 3) Regulations 2025*.

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* (the Principal Regulations) are amended as set out in the Schedule to the Regulations.

Schedule 1 – Amendments

Financial Framework (Supplementary Powers) Regulations 1997

The item in Schedule 1 amends Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on an activity to be administered by the Department of Climate Change, Energy, the Environment and Water (the department).

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

This item adds one new table item to Part 4 of Schedule 1AB.

Table item 737 – Local Environmental Projects Program

New **table item 737** establishes legislative authority for government spending on the Local Environmental Projects Program (the program).

The program aims to support local projects that will bring nature and heritage back into the communities and support Australians to be active stewards of their environment. Community stewardship of nature through the program will contribute to Australia's conservation objectives and builds the health and resilience of Australian society, businesses and economy.

The program will implement the 2025 Federal election commitment in line with *Labor's costed plan to Build Australia's Future* to deliver targeted projects which assist Australian communities care for nature and Australia's heritage.

Funding of \$87.5 million will be provided to support 40 projects across a range of activities such as habitat remediation, weed treatment, heritage conservation, revegetation and debris removal along riverbanks and creeks, improving wildlife care facilities and capital works.

Legislative authority for five projects, with costs of up to \$32.0 million will be provided through existing legislation. The Port Arthur Heritage Works, Restoring Woolmers, Restoring Brickendon and the National Circularity Centre will be delivered by the Tasmanian and New South Wales (NSW) governments through Federal Funding Agreements, made under the *Federal Financial Relations Act 2009* and the *Federation Reform Fund Act 2008*. The development of Cockatoo Island/Wareamah Pool in NSW will be delivered by the Sydney Harbour Federation Trust.

Legislative authority for the remaining 35 projects will be supported by table item 737. Funding of up to \$55.5 million over four years from 2025-26 will support key projects such as Flood Mitigation, Ecology for Ironbark Creek and Derwent River Restoration and other projects such as koala strongholds and parks, wildlife hospitals, flood mitigation, saltmarsh management, as well as reef, swamp, river, creek and waterway restoration and rehabilitation, habitat restoration, park protection, revegetation, forest expansion, cockatoo hospitals and watering troughs, and biodiversity restoration.

The 35 projects will directly contribute to Australia's international obligations including the *Convention on Biological Diversity* [1993] ATS 32, the *World Heritage Convention* (formally known as the *Convention Concerning the Protection of the World Cultural and Natural Heritage*) and the *Convention on Wetlands* (also known as the *Ramsar Convention*).

The main beneficiaries are the project proponents, including local governments, wildlife hospitals and community-based environmental non-government organisations (NGOs), as well as their local communities who will benefit from stewardship of nature.

The projects will build on previous investments, such as:

- Saving Koalas Fund, which supports the recovery and long-term conservation of the koalas and their habitats;
- Urban Rivers and Catchments Program, which is restoring the health of Australia urban waterways for native plants, animals, and local communities;
- Saving Native Species Program, which is supporting the recovery of Australia unique plants, animals and ecological communities; and
- ongoing Australian Heritage Grants program, which supports National Heritage-listed places recognised for their natural, Indigenous or historic heritage values.

The projects also contribute to the Australian Government's delivery of *Australia's Strategy for Nature 2024-2030* (developed by Australia as a party to the Convention on Biological Diversity) (available at: www.dcceew.gov.au/environment/biodiversity/conservation/publications/australias-strategy-for-nature), which sets ambitious national targets to tackle the drivers of biodiversity decline, to protect and repair our precious places and put nature on a path to recovery.

The projects will be delivered by local councils, community groups, NGOs and other organisations, with some projects potentially involving co-contributions from state governments or industry partners.

Funding amount and arrangements, merits review and consultation

Total funding of up to \$87.5 million over four years from 2025-26 will be included in the 2025-26 Mid-Year Economic and Fiscal Outlook and the Portfolio Additional Estimates Statements for the Climate Change, Energy, the Environment and Water portfolio. Funding of \$55.5 million for the item will come from Program 2.1: Local Environmental Projects, which is part of Outcome 2.

The department will deliver the projects through closed, non-competitive grants, in accordance with the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the *Public Governance, Performance and Accountability Rule 2014* and the *Commonwealth Grants Rules and Principles 2024* (CGRPs).

Consistent with the CGRPs, the department will develop grant opportunity guidelines and will have regards to the nine key principles in administering the grants. Guidelines containing eligibility and assessment criteria will be available on GrantConnect (www.grants.gov.au). Grant recipients must demonstrate that their proposal meets the relevant criteria before receiving a grant.

Grant processes will be administered by the department and the Business Grants Hub within the Department of Industry, Science and Resources.

It is anticipated that the Minister for the Environment and Water and/or their delegate will be the decision maker for the program expenditure. The delegate will be an Executive Level 2 (EL2) officer with appropriate financial delegations, understanding of the Accountable Authority Instructions, understanding of the Commonwealth resource management framework and appropriate knowledge and understanding of the program, including relevant eligibility and merit criteria.

The exercise of the delegate's powers and functions will be limited by the Commonwealth resource management framework, which is set out in law and includes the PGPA Act and the *Financial Framework (Supplementary Powers) Act 1997*. Departmental policies on probity, transparency, accountability and managing conflicts of interest will provide additional safeguards on the exercise of the delegate's powers and functions.

Delegation to an EL2 officer is appropriate as these closed, non-competitive grants are individually targeted projects already identified by a government commitment. Delegation is necessary to enable the grants to be delivered effectively and efficiently, and to maximise the time for project delivery and policy outcome achievement.

The delegate will make decisions and funding determinations based on the merits of each proposal. Management of grants will be undertaken by the Business Grants Hub. Information about awarded grants will be published on GrantConnect.

Funding decisions made in connection with grants will not be subject to merits review. Independent merits review would not be considered appropriate 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 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 merits review?*).

In addition, the review and audit process undertaken by the Australian National Audit Office 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 also be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The department has consulted, and will continue to consult, with organisations to inform and advise of the program's progress and to seek project information. The consultations occurred between June and August 2025, subject to proponent availability via a combination of emails, phone calls and Teams meetings.

The organisations consulted were: Science for Wildlife, Blue Mountains World Heritage Institute, Byron Bay Wildlife Hospital, Hunter Water, Port Stephens Koala Hospital, OzFish Unlimited, Campbelltown City Council, Goodness Enterprises, City of Mitcham, Glenorchy City Council, Hobart City Council, North East Bioregional Network, Derwent Catchment Project, City of Greater Bendigo, Merri-bek City Council, Merri Creek Management Committee, Darebin Creek Management Committee, Friends of Edwardes Lake, Yarra City Council, Parks Victoria, City of Swan, City of Vincent, City of Fremantle, City of Melville, Town of Victoria Park, City of Cockburn, Friends of Clontarf Hill, City of Bayswater, Native Animal Rescue, Waratah-Wynyard Council, and City of Kwinana. Proponents were generally supportive of the program.

Constitutional considerations

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the external affairs power (section 51(xxix)) of the Constitution.

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.

Australia is a party to the *World Heritage Convention* [1975] ATS 47). Under Art 5(d) of the World Heritage Convention, Australia has committed to endeavour to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of properties of the World Heritage list. Relevantly, under the World Heritage Convention, Australia has committed to:

- recognise that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain (Art 4);
- recognise that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate (Art 6(1));
- undertake, in accordance with the provisions of this Convention, to give their help in the identification, protection, conservation and presentation of the cultural and natural heritage referred to in paragraphs 2 and 4 of Article 11 if the States on whose territory it is situated so request (Art 6(2));
- undertake not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage referred to in Articles 1 and 2 situated on the territory of other States Parties to this Convention (Art 6(3)).

The program will provide funding for the Blue Mountains Koala Strong-hold project, including measures which are necessary for the protection and conservation of the Greater Blue Mountains World Heritage Area, including habitat restoration and eco-monitoring projects. It also includes funding for the Flood Mitigation and Ecology for Ironbark Creek to provide aquatic habitat linked to internationally recognised Hunter Ramsar Wetlands.

Australia is also a party to the *Convention on Biological Diversity* [1993] ATS 32 (Biodiversity Convention). Relevantly, under the Biodiversity Convention, Australia has committed to:

- develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, inter alia, the measures set out in this Convention relevant to the Contracting Party concerned (Art 6(a));
- integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies (Art 6(b));
- regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use (Art 8(c));
- promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings (Art 8(d));
- endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components (Art 8(i));
- rehabilitate and restore degraded ecosystems and promote the recovery of threatened species, inter alia, through the development and implementation of plans and other management strategies (Art 8(f));

- adopt measures for the ex-situ conservation of components of biological diversity, preferably in the country of origin of such components (Art 9(a));
- establish and maintain facilities for ex-situ conservation of and research on plants, animals and micro-organisms, preferably in the country of origin of genetic resources (Art 9(b)).

The purpose of the program is to improve biodiversity outcomes which will include protection and restoration of degraded ecosystems, maintaining viable populations of species in their natural environment and promoting recovery of threatened and native species.

The projects also contribute to the Government's delivery of *Australia's Strategy for Nature 2024–2030*, developed by Australia as a party to the Biodiversity Convention.

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 (Climate Change, Energy, the Environment and Water Measures No. 3) Regulations 2025

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 (Climate Change, Energy, the Environment and Water Measures No. 3) Regulations 2025* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on the Local Environmental Projects Program (the program). The program will be administered by the Department of Climate Change, Energy, the Environment and Water.

The program aims to support local projects that will bring nature and heritage back into the communities and support Australians to be active stewards of their environment. Community stewardship of nature through the program will contribute to Australia's conservation objectives and build the health and resilience of Australian society, businesses and economy.

The program will implement the 2025 Federal election commitment in line with *Labor's costed plan to Build Australia's Future* to deliver 40 projects to assist Australian communities care for nature and Australia's heritage. The program will deliver a range of activities, such as habitat remediation, weed treatment, heritage conservation, revegetation and debris removal along riverbanks and creeks, and improving wildlife care facilities.

Funding of up to \$55.5 million will be provided over four years from 2025-26 for 35 projects supported by table item 737 to improve biodiversity outcomes which include protection and restoration of degraded ecosystems, maintaining viable populations of species in their natural environment and promoting recovery of threatened and native species.

Human rights implications

This disallowable legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This disallowable legislative instrument is compatible with human rights as it does not raise any human rights issues.

Senator the Hon Katy Gallagher
Minister for Finance