

Monitor 11 of 2021 - Committee correspondence

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4 August 2021

Senator the Hon Marise Payne
Minister for Foreign Affairs
Parliament House
CANBERRA ACT 2600

Via email: foreign.minister@dfat.gov.au

CC: legislation@dfat.gov.au

Dear Minister,

Australia's Foreign Relations (State and Territory Arrangements) Rules 2020 [F2020L01569]

Thank you for your response of 27 July 2021 to the Senate Standing Committee for the Scrutiny of Delegated Legislation in relation to the above instrument.

The committee considered your response at a private meeting earlier today. Whilst noting your advice, the committee remains concerned that the instrument raises significant scrutiny concerns that should be brought to the attention of the Senate. These scrutiny concerns are detailed in Chapter 1 of *Delegated Legislation Monitor 11 of 2021*, available on the committee's website at www.aph.gov.au/senate_sdlc.

The committee has also resolved not to withdraw its notice of motion to disallow the instrument at this time. I note that, based on the current sitting calendar, the disallowance motion must be considered by the Senate by 11 August 2021 or the instrument will be deemed to have been disallowed under subsection 42(2) of the *Legislation Act 2003*.

Noting this, the committee requests your urgent response to the matter outlined in Chapter 1 of *Delegated Legislation Monitor 11 of 2021* by **close of business Friday, 6 August 2021**.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the Delegated Legislation Monitor.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email at sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

Senator Susan McDonald

Chair

Senate Rural and Regional Affairs and Transport Legislation Committee

Parliament House

CANBERRA ACT 2600

via email: rrat.sen@aph.gov.au

cc: The Hon Barnaby Joyce MP
Minister for Infrastructure, Transport and Regional Development
Barnaby.Joyce.MP@aph.gov.au

Dear Chair,

Matters of interest to the Senate—heavy vehicle road user charge

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Standing order 23(4) requires the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate. These may include instruments which contain significant policy matters or significant elements of a regulatory scheme, instruments which amend primary legislation, and instruments which have a significant impact on personal rights and liberties.

Noting that the following instrument appears to contain significant policy matters relating to the road user charge for heavy vehicles, the committee has determined that the instrument engages standing order 23(4) and accordingly has resolved to draw it to the attention of your committee:

Instrument	Purpose	Last day to lodge disallowance notice
Fuel Tax (Road User Charge) Determination 2021 [F2021L00689]	<p>Heavy vehicles with a gross vehicle mass of more than 4.5 tonnes and used on public roads for business purposes are charged to recover that part of the road construction and maintenance costs that are attributable to heavy vehicles. A portion of the costs are recovered by states and territories through heavy vehicle registration charges and a portion by the Commonwealth through the fuel-based road user charge.</p> <p>This determination sets the new rate of the road user charge at 26.4 cents per litre of taxable fuel. (The rate was previously 25.8 cents per litre of taxable fuel.)</p>	24/08/2021

I note that under standing order 25(2)(a) your committee is empowered to conduct own-motion inquiries into legislative instruments which relate to the portfolios allocated to your committee, although there is no requirement to do so. Should your committee decide to further examine the above instrument, I note that the table above identifies the last day (based on the current sitting pattern) for lodging a disallowance notice in the Senate.

Further details about the instrument are published on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

Senator Katy Gallagher
Chair
Senate Select Committee on COVID-19
Parliament House
CANBERRA ACT 2600

via email: covid.sen@aph.gov.au

cc: Senator the Hon Simon Birmingham, Minister for Finance
DLO-Finance@finance.gov.au

Department of Finance, FFSPRegs@finance.gov.au

Dear Chair,

Legislative instruments specifying Commonwealth expenditure—COVID-19 Disaster Payment

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Standing order 23(4) requires the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate.

The instrument listed in the table below, in combination with its enabling Act, authorises the Commonwealth to spend public money on the COVID-19 Disaster Payment. The committee considers that the scrutiny of such instruments is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure. Noting this, the committee has determined that the instrument listed below engages standing order 23(4), and accordingly has resolved to draw it to the attention of your committee:

Instrument	Grant/Program	Amount	Description
Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 2) Regulations 2021 [F2021L00698]	COVID-19 Disaster Payment	<p>The rate of payment is currently set at:</p> <ul style="list-style-type: none"> • \$750 per week for people who were engaged in paid employment of more than 20 hours per week; • \$450 per week for people who were engaged in paid employment of less than 20 hours per week; and • \$200 per week for people in receipt of an eligible income support payment. 	<p>The payment is intended to assist eligible workers who are unable to earn their usual income as a result of health restrictions (public health orders) imposed by state or territory governments, where the Commonwealth Chief Medical Officer has determined the location to be a COVID-19 hotspot for the purposes of Commonwealth support. The payment will be available when restrictions have remained in place for longer than one week and, other than annual leave, the individual does not have available leave entitlements to cover the period of the restrictions.</p>

Should your committee decide to further examine the above instrument, I note that (based on the current sitting pattern) the time for lodging a disallowance notice in the Senate expires on 24 August 2021.

The committee has also drawn this instrument to the attention of Senate Legal and Constitutional Affairs Legislation Committee.

Further details about the instrument are published on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

Senator the Hon Sarah Henderson
Chair
Senate Legal and Constitutional Affairs Legislation Committee
Parliament House
CANBERRA ACT 2600

via email: legcon.sen@aph.gov.au

cc: Senator the Hon Simon Birmingham, Minister for Finance
DLO-Finance@finance.gov.au

Department of Finance, FFSPRegs@finance.gov.au

Dear Chair,

Legislative instruments specifying Commonwealth expenditure—COVID-19 Disaster Payment

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Standing order 23(4) requires the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate.

The instrument listed in the table below, in combination with its enabling Act, authorises the Commonwealth to spend public money on the COVID-19 Disaster Payment. The committee considers that the scrutiny of such instruments is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure. Noting this, the committee has determined that the instrument listed below engages standing order 23(4), and accordingly has resolved to draw it to the attention of your committee:

Instrument	Grant/Program	Amount	Description
Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 2) Regulations 2021 [F2021L00698]	COVID-19 Disaster Payment	<p>The rate of payment is currently set at:</p> <ul style="list-style-type: none"> • \$750 per week for people who were engaged in paid employment of more than 20 hours per week; • \$450 per week for people who were engaged in paid employment of less than 20 hours per week; and • \$200 per week for people in receipt of an eligible income support payment. 	<p>The payment is intended to assist eligible workers who are unable to earn their usual income as a result of health restrictions (public health orders) imposed by state or territory governments, where the Commonwealth Chief Medical Officer has determined the location to be a COVID-19 hotspot for the purposes of Commonwealth support. The payment will be available when restrictions have remained in place for longer than one week and, other than annual leave, the individual does not have available leave entitlements to cover the period of the restrictions.</p>

I note that under standing order 25(2)(a) your committee is empowered to conduct own-motion inquiries into legislative instruments which relate to the portfolios allocated to your committee, although there is no requirement to do so. Should your committee decide to further examine the above instrument, I note that (based on the current sitting pattern) the time for lodging a disallowance notice in the Senate expires on 24 August 2021.

Further details about the instrument are published on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

Senator the Hon David Fawcett
Chair
Senate Environment and Communications Legislation Committee
Parliament House
CANBERRA ACT 2600

via email: ec.sen@aph.gov.au

cc: Senator the Hon Simon Birmingham, Minister for Finance,
DLO-Finance@finance.gov.au

The Hon Angus Taylor MP, Minister for Energy and Emissions Reduction,
angus.taylor@energy.gov.au, DLOTaylor@environment.gov.au

Department of Finance, FFSPRegs@finance.gov.au

Dear Chair,

**Legislative instruments specifying Commonwealth expenditure—Boosting
Australia’s Diesel Storage Program**

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Standing order 23(4) requires the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate.

The instrument listed in the table below, in combination with its enabling Act, authorises the Commonwealth to spend public money on the Boosting Australia’s Diesel Storage Program. The committee considers that the scrutiny of such instruments is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure. Noting this, the committee has determined that the instrument listed below engages standing order 23(4), and accordingly has resolved to draw it to the attention of your committee:

Instrument	Grant/Program	Amount	Description
Industry Research and Development (Boosting Australia's Diesel Storage Program) Instrument 2021 [F2021L00610]	Boosting Australia's Diesel Storage Program	\$200 million	The program will provide \$200 million to increase Australia's fuel security by providing matched funding to industry to construct new diesel storage. This will assist industry in meeting the increased diesel levels under the minimum stockholding obligation. The program will support industry by providing up to 50 per cent of their capital expenditure costs, through a grant, for the construction of the new diesel storage.

I note that under standing order 25(2)(a) your committee is empowered to conduct own-motion inquiries into legislative instruments which relate to the portfolios allocated to your committee, although there is no requirement to do so. Should your committee decide to further examine the above instrument, I note that (based on the current sitting pattern) the time for lodging a disallowance notice in the Senate expires on 24 August 2021.

Further details about the instrument are published on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

Senator Slade Brockman
Chair
Senate Economics Legislation Committee
Parliament House
CANBERRA ACT 2600

via email: economics.sen@aph.gov.au

cc: Senator the Hon Simon Birmingham, Minister for Finance,
DLO-Finance@finance.gov.au

The Hon Christian Porter MP, Minister for Industry, Science and
Technology, industrydlo@industry.gov.au

Department of Finance, FFSPRegs@finance.gov.au

Dear Chair,

**Legislative instruments specifying Commonwealth expenditure—Support for an
Australian Fashion Certification Trade Mark Program**

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Standing order 23(4) requires the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate.

The instrument listed in the table below, in combination with its enabling Act, authorises the Commonwealth to spend public money on the Support for an Australian Fashion Certification Trade Mark Program. The committee considers that the scrutiny of such instruments is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure. Noting this, the committee has determined that the instrument listed below engages standing order 23(4), and accordingly has resolved to draw it to the attention of your committee:

Instrument	Grant/Program	Amount	Description
Industry Research and Development (Support for an Australian Fashion Certification Trade Mark Program) Instrument 2021 [F2021L00692]	Support for an Australian Fashion Certification Trade Mark Program	\$0.95 million over two years from 2020-21	<p>The Program provides funding to the Australian Fashion Council Limited to undertake the design, development and delivery of an Australian fashion certification trade mark to support its objectives to promote and nurture the success of Australian fashion and textile companies and ensure competitiveness domestically and internationally.</p> <p>The design and development of the trade mark will likely include the development of creative concepts and determination of the rules of use and registration. The delivery of the trade mark will likely include administering the trade mark, approving businesses for its use and implementing an awareness campaign.</p>

I note that under standing order 25(2)(a) your committee is empowered to conduct own-motion inquiries into legislative instruments which relate to the portfolios allocated to your committee, although there is no requirement to do so. Should your committee decide to further examine the above instrument, I note that (based on the current sitting pattern) the time for lodging a disallowance notice in the Senate expires on 24 August 2021.

Further details about the instrument are published on the Federal Register of Legislation at <https://www.legislation.gov.au/>. Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

Senator the Hon Richard Colbeck
Minister for Senior Australians and Aged Care Services
Parliament House
CANBERRA ACT 2600

Via email: Minister.Colbeck.DLO@health.gov.au
CC: parliamentary.committees@health.gov.au

Dear Minister,

Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment Regulations 2021 [F2021L00690]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument.

Levying of taxation in delegated legislation

Senate standing order 23(3)(j) requires the committee to consider whether an instrument contains matters more appropriate for parliamentary enactment (that is, matters that should be enacted via primary legislation rather than delegated legislation). This includes whether an instrument imposes a tax or levy. In addition, Senate standing order 23(4) requires the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest.

This instrument, made under the *Australian Radiation Protection and Nuclear Safety (Licence Charges) Act 1998* (Act), amends the Australian Radiation Protection and Nuclear Safety (Licence Charges) Regulations 2018 to increase annual licence charges by an indexation amount of 2 per cent.

The committee considers that one of the most fundamental functions of the Parliament is to levy taxation. In this regard, the committee's consistent scrutiny view is that it is for the Parliament, rather than makers of delegated legislation, to set a rate of tax. In this instance, it does not appear there is a cap on the face of the Act as to the amount of tax that may be imposed, which compounds the committee's scrutiny concerns in relation to this tax due to the limited parliamentary oversight afforded to it.

As the levying of taxation in delegated legislation is a systemic technical scrutiny matter, the committee has resolved to draw this instrument to the attention of the Senate in its *Delegated Legislation Monitor 11 of 2021*. However, the committee is not seeking any further information or advice from you in relation to this particular instrument.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the Delegated Legislation Monitor.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

The Hon Karen Andrews MP
Minister for Home Affairs
Parliament House
CANBERRA ACT 2600

Via email: dlo@homeaffairs.gov.au

Dear Minister,

Aviation Transport Security Amendment (Screening Information) Regulations 2021 [F2021L00736]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all disallowable legislative instruments against scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument, and the committee seeks your advice in relation to this matter.

Significant penalties in delegated legislation

Strict liability

Conferral of discretionary powers

Senate standing order 23(3)(h) requires the committee to scrutinise each legislative instrument as to whether it trespasses unduly on personal rights and liberties. This may include whether the instrument provides for offences of strict liability. In addition, Senate standing order 23(3)(j) requires the committee to consider whether an instrument contains matters more appropriate for parliamentary enactment. This includes whether an instrument imposes significant penalties. Senate standing order 23(3)(c) further requires the committee to scrutinise each instrument as to whether it makes rights, liberties, obligations or interests unduly dependent on insufficiently defined administrative powers.

Subregulation 4.17A(2) enables the Secretary to give a written notice to a screening authority specifying requirements relating to screening that is carried out at a screening point using certain types of equipment. In determining whether to specify a requirement, subregulation 4.17A(4) provides that the Secretary may give consideration to a number of factors, including 'any other matter the Secretary considers relevant'. This appears to enable the Secretary to exercise considerable discretion as to the matters that may be included in these requirements.

The committee's scrutiny concerns in relation to this broad discretion are heightened by subregulation 4.17A(6) which provides that a person commits an offence of strict liability if the screening authority does not comply with the requirements specified in the Secretary's notice in relation to the screening. The penalty for contravention of this subregulation is 100 penalty units.

While the explanatory statement to this instrument explains the nature and scope of regulation 4.17A, including the necessity of a strict liability offence and the penalty for non-compliance, the committee is concerned that an element of this strict liability offence is left to the

Secretary's discretion and the requirements that must be complied with appear to be issued via a non-legislative notice with no parliamentary or public oversight or transparency. In this regard, the committee draws your attention to the Attorney-General's Department's *Guide to Framing Commonwealth Offences* which provides that the scope of an offence should be clear on its face. It is unclear to the committee how regulation 4.17A can, of itself, ensure sufficient clarity and certainty required of offence provisions, given it relies on the discretion of the Secretary. In this regard, although subregulation 4.17A(4) provides a non-exhaustive list of factors the Secretary may consider in exercising their discretion, there is only limited, non-exhaustive guidance in subregulation 4.17A(3) about the nature of the requirements that the Secretary may specify.

The committee would therefore appreciate your advice as to:

- **whether written notices given by the Secretary under subregulation 4.17A(2) will be subject to any parliamentary or public oversight or transparency, noting that a failure to comply with the requirements set out in the notice is a strict liability offence with a significant penalty;**
- **whether further guidance about the types of requirements that may be specified by the Secretary in a written notice can be included on the face of the instrument, or at least the explanatory statement; and**
- **whether the explanatory statement can be amended to provide guidance about the 'other matters' that the Secretary may consider under paragraph 4.17A(4)(g) in exercising their discretion.**

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **19 August 2021**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

The Hon Christian Porter MP
Minister for Industry, Science and Technology
Parliament House
CANBERRA ACT 2600

Via email: industrydlo@industry.gov.au

CC: Minister for Energy and Emissions Reduction, The Hon Angus Taylor MP,
angus.taylor@energy.gov.au; dlotaylor@industry.gov.au

Minister for Resources and Water, The Hon Keith Pitt MP,
minister.pitt@industry.gov.au

Dear Minister,

**Industry Research and Development Instruments [F2021L00610] [F2021L00536] [F2021L00539]
[F2021L00547] [F2021L00567]**

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all disallowable legislative instruments against scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instruments, and the committee seeks your advice in relation to these matters.

***Parliamentary oversight
Adequacy of explanatory materials***

Senate standing order 23(3)(k) requires the committee to consider whether an instrument complies with any other ground relating to the technical scrutiny of delegated legislation. This includes whether an instrument limits parliamentary oversight. In addition, Senate standing order 23(3)(g) requires the committee to scrutinise each instrument as to whether the accompanying explanatory material provides sufficient information to gain a clear understanding of the instrument.

The committee raises the matter outlined below in relation to the following instruments:

- Industry Research and Development (Boosting Australia's Diesel Storage Program) Instrument 2021 [F2021L00610];
- Industry Research and Development (Growing Australia's Cyber Skills Program) Instrument 2021 [F2021L00536];
- Industry Research and Development (Modern Manufacturing Initiative Program) Instrument 2021 [F2021L00539];
- Industry Research and Development (Carbon Capture, Use and Storage Development Program) Instrument 2021 [F2021L00547]; and
- Industry Research and Development (Beetaloo Cooperative Drilling Program) Instrument 2021 [F2021L00567].

These instruments prescribe spending for specified government programs. However, the eligibility criteria for the various programs are not set out on the face of each instrument, nor are they set out in detail in the instruments' accompanying explanatory statements.

In general, the committee will be concerned where significant details concerning the operation and application of measures prescribed by an instrument are set out in non-legislative policy guidance. The committee notes that this issue often arises in instruments made under Part IV of the *Industry Research and Development Act 1986*.

In these instances, the instruments provide for the broad purposes of the grant programs. While the explanatory statements contain high-level guidance as to how the programs may operate, they generally state that further information about the programs including the eligibility criteria will be set out in grant guidelines.

The committee understands from informal correspondence that your department's preferred approach is for eligibility criteria for programs to be specified in grant guidelines. However, parliamentary oversight is limited where such criteria are not set out in either the instrument itself or its explanatory statement. The committee considers that the scrutiny of instruments which, in combination with their enabling Act, authorise the Commonwealth to spend public money is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure. The eligibility criteria for these programs should therefore be included in legislative instruments which are subject to parliamentary oversight, or at least in the explanatory statements accompanying such instruments, as opposed to non-legislative guidance.

The committee also generally expects explanatory statements to fully explain the purpose and operation of each section of the relevant instrument. This accords with the requirements of paragraph 15J(2)(b) of the *Legislation Act 2003*, as well as the more general expectation that an explanatory statement be sufficiently comprehensive as to assist with the interpretation of the law.

In light of the above, the committee would appreciate your advice as to whether the explanatory statements to each of the five instruments could be amended to set out the eligibility criteria for the programs specified.

Matters more appropriate for parliamentary enactment

Senate standing order 23(3)(j) requires the committee to consider whether an instrument contains matters more appropriate for parliamentary enactment, which should be included in primary, rather than delegated, legislation.

The committee raises the matter outlined below in relation to the Industry Research and Development (Modern Manufacturing Initiative Program) Instrument 2021 [F2021L00539].

This instrument prescribes the Modern Manufacturing Initiative Program (the Program). The explanatory statement to the instrument states that the program will provide \$1.3 billion over four financial years from 2020-21 to 2023-24 as part of the government's commitment to upscale Australia's manufacturing capability and to strengthen future resilience.

By authorising government spending on the Program, the instrument deals with significant matters relating to Commonwealth investment in the manufacturing sector. In this context, it is unclear whether this instrument provides the sole legislative basis for the Modern Manufacturing Initiative Program, or whether at least elements of this program may have been previously considered by the Parliament.

Noting that the Modern Manufacturing Initiative Program appears to be a significant element of Commonwealth industry policy, the committee requests your advice as to whether there is any primary or delegated legislation supporting or regulating the Modern Manufacturing Initiative Program beyond this instrument.

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **19 August 2021**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

The Hon Greg Hunt MP
Minister for Health and Aged Care
Parliament House
CANBERRA ACT 2600

Via email: Minister.Hunt.DLO@health.gov.au

CC: rezana.berman@health.gov.au

Dear Minister,

Therapeutic Goods (Charges) Amendment (2021 Measures No. 1) Regulations 2021 [F2021L00694]

Narcotic Drugs (Licence Charges) Amendment (Charge Amounts and Other Measures) Regulations 2021 [F2021L00752]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument.

Levying of taxation in delegated legislation

Senate standing order 23(3)(j) requires the committee to consider whether an instrument contains matters more appropriate for parliamentary enactment (that is, matters that should be enacted via primary legislation rather than delegated legislation). This includes whether an instrument imposes a tax or levy. In addition, Senate standing order 23(4) requires the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest.

The Therapeutic Goods (Charges) Amendment (2021 Measures No. 1) Regulations 2021 amend the Therapeutic Goods (Charges) Regulations 2018 to increase the annual charges set out in those regulations for most products by 1.05 per cent for the financial year 2021-22.

Similarly, the Narcotic Drugs (Licence Charges) Amendment (Charge Amounts and Other Measures) Regulations 2021 amend the Narcotic Drugs (Licence Charges) Regulation 2016 to increase charges for licences for medicinal cannabis related activities.

The committee considers that one of the most fundamental functions of the Parliament is to levy taxation. In this regard, the committee's consistent scrutiny view is that it is for the Parliament, rather than makers of delegated legislation, to set a rate of tax. In relation to each of the instances described above, it does not appear there is a cap on the face of either of the relevant Acts as to

the amount of tax that may be imposed, which compounds the committee's scrutiny concerns in relation to this tax due to the limited parliamentary oversight afforded to it.

As the levying of taxation in delegated legislation is a systemic technical scrutiny matter, the committee has resolved to draw this instrument to the attention of the Senate in its *Delegated Legislation Monitor 11 of 2021*. However, the committee is not seeking any further information or advice from you in relation to these particular instruments.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the Delegated Legislation Monitor.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

The Hon David Littleproud MP
Minister for Agriculture and Northern Australia
Parliament House
CANBERRA ACT 2600

Via email: minister.littleproud@agriculture.gov.au

CC: DLO-MO@agriculture.gov.au

Dear Minister,

**Primary Industries (Excise) Levies Amendment (Laying Chickens) Regulations 2021
[F2021L00674]**

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument.

Levying of taxation in delegated legislation

Senate standing order 23(3)(j) requires the committee to consider whether an instrument contains matters more appropriate for parliamentary enactment (that is, matters that should be enacted via primary legislation rather than delegated legislation). This includes whether an instrument imposes a tax or levy. In addition, Senate standing order 23(4) requires the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest.

This instrument is made under the *Primary Industries (Excise) Levies Act 1999* and amends the Primary Industries (Excise) Levies Regulations 1999 to impose an Emergency Animal Disease Response levy of 1.1 cents on laying chickens.

The committee considers that one of the most fundamental functions of the Parliament is to levy taxation. In this regard, the committee's consistent scrutiny view is that it is for the Parliament, rather than makers of delegated legislation, to set a rate of tax. In this instance, it does not appear there is a cap on the face of the Act as to the amount of tax that may be imposed, which compounds the committee's scrutiny concerns in relation to this tax due to the limited parliamentary oversight afforded to it.

As the levying of taxation in delegated legislation is a systemic technical scrutiny matter, the committee has resolved to draw this instrument to the attention of the Senate in its *Delegated Legislation Monitor 11 of 2021*. However, the committee is not seeking any further information or advice from you in relation to this particular instrument.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the Delegated Legislation Monitor.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

The Hon Paul Fletcher MP
Minister for Communications, Urban Infrastructure, Cities and the Arts
Parliament House
CANBERRA ACT 2600

Via email: dlo@communications.gov.au

Dear Minister,

**Radiocommunications (Receiver Licence Tax) Amendment Determination 2021 (No. 2)
[F2021L00679]**

**Radiocommunications (Transmitter Licence Tax) Amendment Determination 2021 (No. 2)
[F2021L00680]**

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instruments.

Levying of taxation in delegated legislation

Senate standing order 23(3)(j) requires the committee to consider whether an instrument contains matters more appropriate for parliamentary enactment (that is, matters that should be enacted via primary legislation rather than delegated legislation). This includes whether an instrument imposes a tax or levy. In addition, Senate standing order 23(4) requires the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest.

The instruments are made under the *Radiocommunications (Receiver Licence Tax) Act 1983* and the *Radiocommunications (Transmitter Licence Tax) Act 1983* and set the rates of tax in respect of certain receiver and transmitter licences.

The committee considers that one of the most fundamental functions of the Parliament is to levy taxation. In this regard, the committee's consistent scrutiny view is that it is for the Parliament, rather than makers of delegated legislation, to set a rate of tax. In this instance, it does not appear there is a cap on the face of the Acts as to the amount of tax that may be imposed, which compounds the committee's scrutiny concerns in relation to this tax due to the limited parliamentary oversight afforded to it.

As the levying of taxation in delegated legislation is a systemic technical scrutiny matter, the committee has resolved to draw these instruments to the attention of the Senate in its *Delegated Legislation Monitor 11 of 2021*. However, the committee is not seeking any further information or advice from you in relation to this particular instrument.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the Delegated Legislation Monitor.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

The Hon Paul Fletcher MP
Minister for Communications, Urban Infrastructure, Cities and the Arts
Parliament House
CANBERRA ACT 2600

Via email: dlo@communications.gov.au

Dear Minister,

Telecommunications (Statutory Infrastructure Providers—Circumstances for Exceptions to Connection and Supply Obligations) Determination 2021 [F2021L00651]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all disallowable legislative instruments against scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument, and the committee seeks your advice in relation to these matters.

Exemptions from primary legislation

Parliamentary oversight

Senate standing order 23(3)(j) requires the committee to consider whether an instrument contains matters more appropriate for parliamentary enactment. This may include instruments which provide continuing exemptions to primary legislation. In addition, Senate standing order 23(3)(k) requires the committee to scrutinise each legislative instrument as to whether it complies with any ground relating to the technical scrutiny of delegated legislation. This includes whether an instrument limits parliamentary oversight.

The instrument provides exemptions for statutory infrastructure providers from connection and/or supply obligations in subsections 360P(1) and 360Q(1) the *Telecommunications Act 1997*, in relation to wholesale broadband services.

The committee generally prefers that exemptions from primary legislation by delegated legislation do not continue in force for such time as to operate as a de facto amendment to the principal Act. In this regard, the committee notes that the measures in the instrument are intended to remain in force until the instrument sunsets 10 years after commencement.

The committee's longstanding view is that provisions which exempt person or entities from the operation of primary legislation should cease to operate no more than three years after they commence. This is to ensure a minimum degree of regular parliamentary oversight.

In addition, as per the committee's guidelines, the committee considers that the explanatory statement should indicate whether there is any intention to conduct a review of the relevant provisions to determine if they remain necessary and appropriate, including whether it is appropriate to include the provisions in delegated legislation.

The explanatory statement does not justify why it is necessary for the instrument to remain in force for 10 years, nor why these exemptions from primary legislation are appropriate for delegated legislation.

In light of this, from a scrutiny perspective, the committee considers that the instrument should be amended to specify that it ceases to operate three years after commencement. If it becomes necessary to extend the operation of these provisions, the committee considers that this should be done by amending the primary legislation or via a subsequent legislative instrument that is subject to disallowance and parliamentary scrutiny.

The committee therefore requests your advice as to:

- **why it is considered necessary and appropriate to use delegated legislation, rather than primary legislation, to exempt statutory infrastructure providers from connection and/or supply obligations in subsections 360P(1) and 360Q(1) the *Telecommunications Act 1997* in relation to wholesale broadband services;**
- **whether the instrument can be amended to provide that the measures cease within three years after commencement; and**
- **whether there is any intention to conduct a review of the relevant provisions to determine if they remain necessary and appropriate, including whether it is appropriate to include the provisions in delegated legislation.**

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **19 August 2021**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

Senator the Hon Amanda Stoker
Assistant Minister to the Attorney-General
Parliament House
CANBERRA ACT 2600

Via email: AMO.DLO@ag.gov.au

Dear Assistant Minister,

Bankruptcy Regulations 2021 [F2021L00261]

Thank you for your response of 26 July 2021 to the Senate Standing Committee for the Scrutiny of Delegated Legislation in relation to the above instrument. The committee considered your response at its private meeting on 4 August 2021 and has resolved to seek your further advice about the issues outlined below.

Modifications to primary legislation

Parliamentary oversight

The committee welcomes your undertaking that the government will conduct a targeted review to assess whether the modifying provisions currently prescribed in Schedules 2–4 of the instrument are more appropriately contained in primary legislation, and if so, the appropriate legislative vehicle through which changes can be progressed. You have advised this review will commence in 2022 and have undertaken to advise the committee of the outcome of this review by 1 April 2023. The committee looks forward to being notified about the outcome the review and will record this undertaking in the committee's Delegated Legislation Monitors.

You have also advised that it would not be appropriate to provide a three year real date for Schedules 2–4 of the instrument as this will place unnecessary uncertainty and pressure on the personal insolvency system. For this reason, you propose not to amend the instrument to repeal in three years.

While the committee appreciates your undertaking to conduct this review regarding appropriateness of these provisions, it retains significant scrutiny concerns about the duration of these provisions in this instrument which modify the operation of the *Fringe Benefits Tax Assessment Act 1986* (FBTA Act) and the *Bankruptcy Act 1996* (Bankruptcy Act).

While the committee acknowledges your concern about creating unnecessary uncertainty in the personal insolvency system, the committee considers that this can be addressed by ensuring these long-term provisions which modify the operation of primary legislation are contained in primary legislation, rather than delegated legislation, as soon as practicable.

As advised in my letter of 24 June 2021, on 16 June 2021 the Senate resolved to amend standing order 23 to reinforce the committee's scrutiny principles regarding delegated legislation which amends or modifies the operation of primary legislation. The committee therefore intends to rigorously pursue this type of scrutiny concern in accordance with the mandate provided by the Senate.

For these reasons, the committee requests your further advice regarding whether the instrument can be amended to provide for a five year repeal date for the provisions of the instrument which modify the operation of the FBTA Act and the Bankruptcy Act. The committee notes that this would allow time for the targeted review to be completed and any resulting amendments to legislation to be progressed prior to the repeal of the modifying provisions.

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. Noting that the 15th sitting day after the instrument was tabled in the Senate is 11 August 2021, the committee intends to give a notice of motion to disallow the instrument on that day as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **19 August 2021**.

Finally, please note that, in the interests of transparency this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

Ms Philippa Lynch PSM
Chief Executive and Principal Registrar
High Court of Australia
PO Box 6309
KINGSTON ACT 2604

Via email: philippa.lynch@hcourt.gov.au

CC: nerissa.kitson@hcourt.gov.au

Senator the Hon Michaelia Cash, Attorney-General,
attorney@ag.gov.au; DLO@ag.gov.au

Dear Ms Lynch,

High Court of Australia (Building and Precincts—Regulating the Conduct of Persons) Directions 2021 [F2021L00391]

Thank you for your letter of 12 July 2021 to the Senate Standing Committee for the Scrutiny of Delegated Legislation in relation to the above instrument. The committee considered your letter at its private meeting on 4 August 2021.

The committee thanks you for your advice in relation to examples of factors that would be considered when determining whether an individual has acted in a disorderly or offensive manner or created any nuisance, such as whether behaviour impedes access to the Court or has the potential to cause harm. Your letter provided examples of behaviour that is proscribed such as making physical threats to staff or smashing the exterior glass of the building.

The committee also acknowledges your advice that celebrations or protests which do not impede access to or impact on proceedings, or cause damage to the building, would not be likely to be considered such behaviour.

While the committee welcomes the additional information provided in your letter, from a scrutiny perspective, the committee considers that it would be appropriate for the instrument to be amended to set out the factors that would be taken into account in determining whether an individual has acted in a disorderly or offensive manner or created any nuisance.

The committee would therefore appreciate your advice as to whether the instrument could be amended to:

- set out the factors that would be taken into account in determining whether an individual has acted in a 'disorderly or offensive manner' or created 'any nuisance' within the building or the precincts; and

- clarify that celebrations or protests which do not impede access to or impact on proceedings, or cause damage to the building would not be likely to be considered conduct falling within either paragraph 5(i) or 5(xii).

Please note that as the 15th sitting day after the instrument was tabled in the Senate is 11 August 2021, in accordance with its usual practice, the committee intends to give a notice of motion to disallow the instrument on that day as a precautionary measure to allow an additional 15 sitting days for the committee to consider further information received in relation to the instrument. Once the committee has satisfactorily concluded its consideration of the instrument the committee will be in a position to give notice of its intention to withdraw the disallowance notice.

Noting this, the committee would appreciate receiving further advice in relation to this matter by 19 August 2021, although please contact the committee's secretariat to discuss this timeframe if required.

Finally, please note that, in the interests of transparency this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you in advance for your continued assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

The Hon Paul Fletcher MP
Minister for Communications, Urban Infrastructure, Cities and the Arts
Parliament House
CANBERRA ACT 2600

Via email: dlo@communications.gov.au
CC: Senator the Hon Amanda Stoker
Assistant Minister to the Attorney-General
AMO.DLO@ag.gov.au

Dear Minister,

Legislation (Telecommunications Customer Service Guarantee Instruments) Sunset-altering Declaration 2021 [F2021L00277]

Thank you for your response of 16 July 2021 to the Senate Standing Committee for the Scrutiny of Delegated Legislation in relation to the above instrument. The committee considered your response at its private meeting on 4 August 2021 and has resolved to seek your further advice about the issues outlined below.

Adequacy of consultation

In your response, you advised that focused consultation was not undertaken with affected stakeholders other than Telstra as other providers do not have the same statutory requirements to provide standard telephone services and, where they do, they may seek full or partial waivers from Customer Service Guarantee obligations. You further noted that prior to making the instrument, both you and the Chair of the Australian Communications and Media Authority had regard to relevant consultation undertaken over a number of years and the decision to defer the sunset of the instruments is part of a broader policy reform process that has been underway for some time. You advised that the prior consultation was equal to, if not greater than, consultation which would be undertaken as part of a thematic review.

In addition, your response advised that the impact of COVID-19 was another reason that a thematic review of the individual instruments was not undertaken in advance of the original sunset dates. You also noted that the decision to align the sunset dates was made in late 2020 and the thematic review will likely take place in late 2022 or early 2023.

The committee considers that it would be appropriate for the information you have provided to be included in the explanatory statement to the instrument, noting the importance of that document as a point of access to understanding the law and, if needed, as extrinsic material to assist with interpretation.

The committee therefore requests that the explanatory statement to the instrument be amended to include the information that you have provided to the committee.

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **19 August 2021**.

Finally, please note that, in the interests of transparency this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



5 August 2021

The Hon David Littleproud MP
Minister for Agriculture and Northern Australia
Parliament House
CANBERRA ACT 2600

Via email: minister.littleproud@agriculture.gov.au

CC: DLO-MO@agriculture.gov.au

Dear Minister,

Export Control (Wood and Woodchips) Rules 2021 [F2021L00318]

Thank you for your response of 13 July 2021 to the Senate Standing Committee for the Scrutiny of Delegated Legislation in relation to the above instrument.

The committee considered your response at its private meeting on 4 August 2021. On the basis of your advice and your undertaking to amend the explanatory statement, the committee has concluded its examination of the instrument.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the *Delegated Legislation Monitor*.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



AUSTRALIAN
SENATE

**Senate Standing Committee for the
Scrutiny of Delegated Legislation**

Parliament House, Canberra ACT 2600
02 6277 3066 | sdlc.sen@aph.gov.au
www.aph.gov.au/senate_sdlc

5 August 2021

The Hon Simon Birmingham
Minister for Finance
Parliament House
CANBERRA ACT 2600

Via email: financeminister@finance.gov.au

CC: DLO-Finance@finance.gov.au

Dear Minister,

Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development and Communications Measures No. 2) Regulations 2021 [F2021L00409]

Thank you for your response of 21 July 2021 to the Senate Standing Committee for the Scrutiny of Delegated Legislation, in relation to the above instrument.

The committee considered your response at its private meeting on 4 August 2021. On the basis of the amendment to the explanatory statement to the instrument registered on the Federal Register of Legislation on 21 July 2021 which includes funding information for the Tourism Aviation Network Support program, the committee has concluded its examination of the instrument.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the *Delegated Legislation Monitor*.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation