



Australian Government
Department of Industry,
Innovation and Science

The Honourable Warren Entsch MP
Chairman of the Joint Select Committee on Northern Australia
PO Box 6021
Parliament House (RG84)
Canberra ACT 2600

By email: jscna@aph.gov.au

Dear Mr. Entsch

I refer to the Joint Select Committee Inquiry into the Northern Australia Infrastructure Facility Bill 2016 (**Bill**).

I write on behalf of the Department of Industry, Innovation and Science (**Department**).

I advise the Committee that:

- as a result of a departmental administrative error an incorrect version of the Explanatory Memorandum for the Bill was inadvertently tabled in Parliament with the Bill; and
- the Department intends to arrange for the correct Explanatory Memorandum to be tabled in Parliament as a 'replacement Explanatory Memorandum' at the first available opportunity.

I understand that the Committee will be completing its Inquiry before the next sitting day of Parliament, and therefore I attach the correct version of the Explanatory Memorandum (with changes marked) for the Committee's reference.

Yours sincerely,

Lisa O'Donnell
A/g Principal Legal Counsel
Department of Industry, Innovation and Science

31 March 2016

Encl. Updated Explanatory Memorandum for the Northern Australia Infrastructure Facility Bill 2016

2013 – 2014 – 2015 - 2016

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

NORTHERN AUSTRALIA INFRASTRUCTURE FACILITY BILL 2016

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Resources, Energy and Northern Australia, the
Honourable Josh Frydenberg MP)

NORTHERN AUSTRALIA INFRASTRUCTURE FACILITY BILL 2016

OUTLINE

The Northern Australia Infrastructure Facility Bill 2016 (the Bill) will establish the Northern Australia Infrastructure Facility (the Facility) to address gaps in the infrastructure financing market for northern Australia. The Bill will also establish a Board of the Facility (the Board) to make the investment decisions for the Facility.

The Facility was announced in the Government's 2015-16 Budget. It is a major initiative of the Government's White Paper on Developing Northern Australia (*Our North, Our Future*) and is integral to the Government's strategy for developing the north.

The Facility will provide up to \$5.0 billion in concessional finance over five years to encourage and complement private and public sector investment in economic infrastructure that otherwise would not be built or would not be built for some time. The financial assistance will be delivered in partnership with State and Territory Governments.

The Facility will operate in partnership with other financiers, filling key gaps in the infrastructure financing market for northern Australia by supplementing private lending for projects that produce significant benefits to the region. The Board will make investment decisions in accordance with the matters provided in the Investment Mandate to be issued by the Responsible Minister.

Major elements of the Bill include:

- Appropriation of \$5 billion from the Consolidated Revenue Fund for the purposes of providing financial assistance for the construction of northern Australian economic infrastructure.
- Establishing the Facility and outlining the functions it may undertake on behalf of the Commonwealth and States and Territories.
- Establishment of the Board, outlining the functions it will undertake on behalf of the Facility and the conduct required by its members. The Board will operate on a commercial basis and comprise of experts in a range of relevant fields such as banking, finance and infrastructure.
- Guidance on the matters to be set out in the Investment Mandate
- Provision of limited powers of direction in relation to the Facility to the Responsible Minister. There will be strong transparency requirements for the use of these limited powers. The Minister does not have the power to direct the Facility to provide financial assistance for projects.
- Requirement for the appointment of a Chief Executive Officer to be responsible for day-to-day administration of the Facility.
- The employment of additional staff required to assist in fulfilling the objectives of the Facility.
- Permission for the Facility to charge fees that do not amount to taxation.
- Requirement for the operation of the Facility to be reviewed following three years of operation of the Act.

FINANCIAL IMPACT

The cost of operating the Facility, which will provide up to \$5.0 billion in financial assistance for the construction of infrastructure projects in northern Australia, is estimated to be \$39.7 million over a five year period commencing in 2016–17. These costs will be recovered through fee revenue, estimated to be \$40.2 million over the same period.

REGULATION IMPACT STATEMENT

Name of department/agency: Department of Industry, Innovation and Science

OBPR Reference number: 20024

Name of proposal: Northern Australia Infrastructure Facility ([Facility](#))

Summary of the proposed policy and any options considered:

The proposed policy is to establish the [Northern Australia Infrastructure Facility](#), ([the Facility](#)), a concessional finance facility, of up to \$5.0 billion, with the objective of increasing private sector investment in infrastructure in northern Australia. The Facility will target projects, that would be unlikely to proceed, or would only proceed at a much later date without financial assistance from the Facility. The NAIF will act in partnership with relevant State and Territory Governments as well as private financiers who will provide the majority of financial support. The Facility was announced in the 2015–16 Budget and is a major measure within the Government’s White Paper on Developing Northern Australia.

What are the regulatory impacts associated with this proposal?

Regulatory implications on large business is anticipated to be low as Facility loan requirements will be consistent with administrative information already required by private financiers. The Facility does not impose any additional regulatory burden on small business, community organisations or individuals.

What are the regulatory costs associated with this proposal? Explain and quantify.

Since the Machinery of Government Changes, the Department of Industry, Innovation and Science has revised the estimated number of loans that may be granted under the NAIF program. If 25 loans are granted at an average value of \$200 million per loan amount with a standard commercial loan agreement of 30 years consistent with the long economic life of infrastructure assets, the regulatory cost for business is estimated at \$0.49 million per annum. Initially the regulatory cost for business was estimated at \$0.09 million per annum. This assumed five \$1.0 billion loans are awarded with a standard commercial loan agreement of 30 years consistent with the long economic life of infrastructure assets.

What are the offsets for the regulatory costs associated with this proposal?

The proposal will be offset against savings identified from the R&D Tax Incentive — introducing a \$100 million expenditure threshold. This saving has been approved by the OBPR

Regulatory burden and cost offset estimate table

Average annual regulatory costs (from business as usual)				
Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in cost
Total, by sector	\$0.49	\$-	\$-	\$0.49
Cost offset (\$ million)	Business	Community organisations	Individuals	Total, by source
Agency	\$(117.80)	\$-	\$-	\$(117.80)
Are all new costs offset?				
<input checked="" type="checkbox"/> Yes, costs are offset <input type="checkbox"/> No, costs are not offset <input type="checkbox"/> Deregulatory—no offsets required				
Total (Change in costs – Cost offset) (\$ million) = \$(117.31)				

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

NORTHERN AUSTRALIA INFRASTRUCTURE FACILITY BILL 2016

This Bill 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 Bill

The Northern Australia Infrastructure Facility Bill (the Bill) will establish a Northern Australia Infrastructure Facility (the Facility) to address gaps in the infrastructure financing market for northern Australia. The Bill will also establish a statutory board (the Board) to make the investment decisions for the Facility.

The proposed Bill will enable the Commonwealth to grants of financial assistance to the State and Territory governments for the purposes of developing economic infrastructure in the Northern Territory and northern parts of Western Australia and Queensland.

Human rights implications

This Bill does not engage any of the applicable rights or freedoms outlined in the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Conclusion

This Bill is compatible with human rights as it does not raise any human rights issues.

**The Minister for Energy, Resources and Northern Australia, the
Honourable Josh Frydenberg MP**

NORTHERN AUSTRALIA INFRASTRUCTURE FACILITY BILL 2016

NOTES ON CLAUSES

Part 1 - Preliminary

Clause 1 - Short Title

Specifies the short title of the Act as the *Northern Australia Infrastructure Facility Act 2016*.

Clause 2 – Commencement

The table in this clause sets out the commencement date for when the Bill's provisions commence. The Bill will commence on 1 July 2016.

Clause 3- Objects of this Act

Subclause 3(1) sets out that the object of the Bill is to provide grants of financial assistance, which is expected to be in the form of loans, guarantees and other financial mechanisms, to the States and Territories for the construction of ~~Northern Australian economic infrastructure~~northern Australian economic infrastructure. Construction of Northern Australia economic infrastructure is intended to include the expansion of existing Northern Australia economic infrastructure and to preclude the Facility re-financing existing Northern Australia economic infrastructure. This subclause does not preclude a portion of the financial assistance being used during the operation phase of infrastructure.

Subclause 3(2) sets out the definition of ~~Northern~~northern Australia economic infrastructure as infrastructure that provides a foundation for economic growth and promotes population growth in ~~Northern~~northern Australia.

Clause 4 – Simplified outline

Clause 4 provides a high level introduction to the provisions in the Bill.

Simplified outlines are included to assist readers to understand the substantive provisions, the outlines is not intended to be comprehensive. It is intended that readers should rely on the substantive provisions.

Clause 5 – Definitions

Clause 5 provides definitions of the terms used throughout the Bill.

The definition of 'Northern Australia' is based on Infrastructure Australia's Northern Australia Infrastructure Audit Report, which defined northern Australia to be: *'all of the Northern Territory, and those parts of Queensland and Western Australia above the Tropic of Capricorn. It also includes all Australian Bureau of Statistics' medium-sized areas (Statistical Area Level 2) with boundaries that intersect the Tropic of Capricorn, but with adjustment to reflect stakeholders' understanding of northern Australia by including all SA2s in the Northern Territory, the Gladstone and Gladstone Hinterland SA2s and Newman SA2 and the town of Exmouth, but excluding the Carnarvon and Exmouth SA2s'.*

SA2s are grouped by populations that interact with each other both economically and socially.

Part 2 - Northern Australia Infrastructure Facility

Clause 6 – Establishment

Clause 6 establishes the Facility as a Corporate Commonwealth entity, subject to the *Public Governance, Performance and Accountability Act 2013*. This clause reflects the intention that the Facility will operate independently from Government and use a corporate model of governance.

Clause 7- Functions of Facility

Clause 7 sets out the functions of the Facility, which include:

- paragraph (1)(a) – providing financial assistance to States and Territories for the construction of ~~Northern~~ northern Australia economic infrastructure;
- paragraph (1)(b) – to determine the terms and conditions for the grants of financial assistance; and
- paragraph (1)(c) – to provide assistance, where agreed, to the States and Territories in relation to financial arrangements and agreements related to the terms and conditions of these grants.

Subclause 7(2) empowers the Facility to do all things necessary in the performance of these functions.

A grant of financial assistance under s 96 of the Constitution extends to financial assistance such as loans, guarantees and other financing mechanisms. Its use in the Bill is not ~~ordinarily~~ intended to include the conventional government accounting definition of grants where the recipient State is entitled to retain the money ~~if~~ provided it is expended for the purposes of the grant. The intention of this clause is to enable the Facility to provide loans, guarantees and other financing mechanisms (as “grants of financial assistance”) to the States and Territories for the construction of northern Australian economic infrastructure, in accordance with any Investment Mandate issued by the Minister. Agreements between the Facility and the States and Territories will prescribe the terms and conditions of these grants of financial assistance.

Clause 8 – Time limit for making decisions to provide financial assistance

Clause 8 prohibits the Facility from making a decision to grant financial assistance after 30 June 2021. However, this clause does not prevent the Facility from providing financial assistance after 30 June 2021, provided the Facility makes the decision to grant financial assistance prior to that date. ~~This clause allows the Facility to continue to deliver and manage financial assistance after 30 June 2021.~~

Subclause 8(2) allows the Facility to continue to deliver, manage and make decisions to vary any existing financial assistance arrangements after 30 June 2021.

Part 3 - Investment Mandate

Clause 9 – Investment Mandate

Clause 9 provides for the responsible Minister to give directions, by legislative instrument, to the Facility about the performance of its functions. The legislative instrument will be known as the ‘Investment Mandate’. The instrument is exempted from disallowance under the *Legislative Instruments Act 2003* (under item 41 of the table in section 44(2)).

Subclause 9(4) ensures that the Minister cannot show preference to particular individuals or entities and therefore must not issue an Investment Mandate to the Facility that relates to a particular infrastructure project or individual.

Clause 10 – Matters covered by Investment Mandate

Clause 10 sets out the range of matters that may be covered by the Investment Mandate. The Investment Mandate provides guidance to the Board in relation to the Facility’s administrative and investment functions. Directions in the Investment Mandate may include directions about the strategies and policies of the Facility, and the eligibility criteria for financial assistance and any other matters that the Minister considers appropriate.

Part 4 – Consideration by Minister

Clause 11 – Consideration by Minister

Clause 11 outlines the Facility’s consultation process with the Minister prior to providing financial assistance. The Facility is required to notify the Minister of a proposal to provide financial assistance and to give the Minister 21 days to consider that proposal. The Minister may request to extend the period of consideration by up to 60 days.

During the consideration period, the Minister is authorised to write to the Facility to reject a proposal to provide financial assistance, in circumstances where the Minister is of the view that the financial assistance would not be in the national interest. Subclause 11(5) lists the circumstances that may be considered by the Minister in administering this national interest test to increase transparency and ensure that the Minister may not arbitrarily reject a proposal.

Specifically, the Minister may give the rejection notice only if the Minister is satisfied that providing the financial assistance would:

- be contrary to the objectives of the Commonwealth government;
- would adversely impact Australia’s national security; or
- would adversely impact Australia’s international reputation.

Clause 12 – Process if Minister decides that financial assistance should not be provided

Clause 12 sets out the process whereby the Minister may reject a proposal to provide financial assistance under clause 11. Clause 12 requires the Minister to provide reasons to the Facility for rejecting a proposal, and to table a rejection notice in each House of Parliament, within 20 days of the rejection notice being given. This clause ensures that the Minister's decision to reject a proposal is transparent to the Parliament.

Part 5 – Board of the Facility

Clause 13- Establishment of Board

Clause 13 establishes the Board of the Facility and provides that the Board will be comprised of the Chair, and no less than four, and no more than six, other members.

The Board may operate for up to six months with less than five members without the function of the Board being affected.

Clause 14 – Functions of Board

Clause 14 sets out the functions of the Board. The functions of the Board will include making investment decisions within the scope of the Investment Mandate; and ensuring the proper, efficient and effective performance of the Facility's functions. The clause also empowers the Board to do all things necessary in connection with the performance of these functions.

Clause 15– Appointment of Members

Clause 15 sets out the appointment of Board members and the Chair, by written instrument of the Minister. As stated in section 33AA of the *Acts Interpretation Act 1901*, this includes the power to reappoint.

Subclause 15(2) provides that Board members are appointed on a part-time basis and for a period not exceeding three years, as stipulated under subclause 15(3).

Subclause 15(4) sets out the expertise required for a person to be appointed to the Board. This ensures that the Facility has the necessary skills to achieve its objectives to a commercial standard, in order to provide credibility in financial markets.

Clause 16 – Acting Appointment as Chair

Clause 16 provides for acting arrangements for the Chair in certain specified circumstances where the Chair is unable to perform his or her role. For example, following the vacancy of the office, or during a period of extended absence from Australia. This clause ensures that there is always a Chair presiding over Board meetings, and the Board has a Chair at all other material times.

Clause 17 – Remuneration of Members

Clause 17 sets out the remuneration of Board members. This clause provides that the remuneration of Board members will be determined by the Remuneration Tribunal, or if no

determination is provided, then by legislative instrument. This clause has effect subject to the *Remuneration Tribunal Act 1973*, which establishes the Remuneration Tribunal and sets out the rules for the making of determinations by the Tribunal.

The Minister, by legislative instrument, may prescribe remuneration, if there is no Remuneration Tribunal Determination. The Minister may also prescribe allowances for the Board members.

Clause 18 – Leave of Absence

Clause 18 provides that the Minister may grant the Chair a leave of absence. The Chair may in turn grant a leave of absence to Board members.

Clause 19 – Other terms and conditions

Clause 19 sets out that Board members hold office on terms and conditions determined by the Minister in relation to matters not covered by this Act. This clause allows the Minister to determine any terms of a Board member's employment that are not within the scope of this Act.

Clause 20 – Resignation of Members

Clause 20 sets out the resignation process for Board members. A Board member may effect resignation of his or her appointment by writing to the Minister. The resignation may take effect on the day it is received by the Minister, unless another day is specified in the resignation.

Clause 21 – Termination of ~~Appointment~~ Board Appointments

Clause 21 provides for the termination of a Board member, listing the circumstances in which the appointment of a Board member may be terminated by the Minister.

Subclause 21(1) provides that a Board member's appointment may be terminated for misbehaviour, or if the member is incapable of performing the duties of his or her office. Alternatively, the Minister may be satisfied that the performance of the Board member has been unsatisfactory ~~for a significant period~~.

Subclause 21(2) provides for a number of specific circumstances where the Board member's appointment may be terminated for the purpose of maintaining the integrity of the Facility. These circumstances, including termination for bankruptcy, intend to ensure that the Board members are fiscally responsible.

Subclause 21(3) permits the Minister to terminate an appointment if a member is absent from three consecutive meetings, without a leave of absence.

Clause 22 – Board meetings

Clause 22 sets out the process for convening Board meetings. This clause requires the Chair to convene at least two Board meetings each financial year and whenever necessary for the efficient performance of the Facility's functions.

Subclause 22(2) empowers the Minister to direct the Chair to convene a Board meeting if the Minister considers it appropriate.

Subclause 22(3) further provides that the Chair must convene a Board meeting if four members request a Board meeting in writing.

Clause 23 – Presiding at Board meetings

Clause 23 provides that the Chair must preside at all meetings they attend. If the Chair is not present, then another member will be appointed, by other Board members, to the position of Chair for that meeting. This clause ensures that there is always a Chair presiding over a Board meeting.

Clause 24 – Quorum at Board meetings

Clause 24 provides that a quorum is constituted by four Board members, if there are six or more appointed members, otherwise three members.

Clause 25 – Voting at Board meetings

Clause 25 sets out the process for voting at Board meetings. This clause provides that Board decisions are determined by a majority of the votes of the present members, and that the Chair, or acting Chair, has a casting vote in the event of equal votes. There are, however, special procedures when a member is required, under section 29 of the *Public Governance, Performance and Accountability Act 2013* (this section relates to when members have disclosed a material personal interest), not to be present in deliberations or to take part in a decision.

Clause 26 – Conduct of Board meetings

Clause 26 gives discretion to the Board to regulate the conduct of its meetings on terms it considers appropriate. However, minutes are required to be taken at each Board meeting.

Clause 27 – Decisions without meetings

Clause 27 allows the Board to make decisions without conducting meetings, and outlines the process for making such decisions. The Board will only be able to make decisions without a meeting if it has determined that it is a type of decision that can be made without a meeting, and it has determined the method for Board members to indicate their agreement. In order for the decision to be made, all members must be informed, or reasonable attempts must be made to inform, of the decision. In accordance with meeting requirements, a member cannot vote on a proposed decision if they were not entitled to vote at a meeting, and the Board has to keep a record of decisions made without a meeting.

Part 6 – Administration

Clause 28 – Chief Executive Officer

Clause 28 establishes a Chief Executive Officer for the Facility. The clause provides for the functions of the CEO – namely, the day-to-day administration of the Facility, and all things necessary or convenient to be done for, or in connection with, the performance of their duties or as required by law.

Clause 29 – CEO to act in accordance with policies and directions of Board

Clause 29 sets out the performance standards for the CEO. This clause requires the CEO to act in accordance with the policies determined by the Board and to comply with any written direction about performance of the CEO's functions provided by the Board.

A direction made by the Board under subclause 29(2) is not a legislative instrument. This provision is included to assist readers, as the instrument is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003* and is merely declaratory of the law.

Clause 30 – Appointment of CEO

Clause 30 provides the appointment process for the CEO. Reflecting the independence of the Facility, the CEO is appointed by the Board, by written instrument, for a period of ~~three~~^{up to five} years. The CEO may be appointed on a part-time or full-time basis. A member of the Board must not be appointed as the CEO.

Clause 31 – Acting appointment as CEO

Clause 31 provides for acting arrangements for the CEO. The Board may appoint a person, other than a Board member, to act as CEO during a vacancy or when the CEO is absent from duty, on extended absence from Australia, or unable to perform the duties of the office. Further rules apply to acting appointments which can be found in the *Acts Interpretation Act 1901*.

This clause ensures that, at all times, the Facility will have a CEO to oversee its daily operations.

Clause 32 – Remuneration of CEO

Clause 32 provides the process for remuneration of the CEO. The CEO is to be paid as determined by the Remuneration Tribunal. If there is no relevant Remuneration Tribunal determination, then the amount of remuneration can be set by Ministerial instrument. Allowances will be provided for in a legislative instrument. This clause has effect subject to the *Remuneration Tribunal Act 1973*, which establishes the Remuneration Tribunal and sets out the rules for the making of determinations by the Tribunal.

Clause 33- Leave of absence of CEO

Clause 33 provides that a full-time CEO has recreational leave entitlements, as determined by the Remuneration Tribunal. The Board may grant the CEO a leave of absence, except for recreational leave.

Clause 34 – Outside employment

Clause 34 restricts a full-time CEO from engaging in outside employment without the Chair's approval. A part-time CEO is restricted from engaging in work that would conflict with the proper performance of their duties. This clause will limit the potential for a conflict of interest to arise in the performance of the CEO's duties.

Clause 35 – Other terms and conditions

Clause 35 allows the Board to determine any terms of the CEO's employment that are not covered within the scope of this Act.

Clause 36 – Resignation of CEO

Clause 36 sets out the resignation process for the CEO. The CEO may effect resignation of his or her appointment by writing to the Board. The resignation may take effect on the day it is received by the Board, unless another day is specified in the resignation.

Clause 37 – Termination of appointment of CEO

Clause 37 provides for the termination of the CEO, listing the circumstances in which the appointment of the CEO may be terminated by the Board. The purpose of this clause is to ensure the Board has the discretion to terminate the CEO if he or she is unable to perform their functions and meet the commercial objectives of the Facility.

Subclause 37(1) provides that a CEO's appointment may be terminated for misbehaviour or if the CEO is incapable of performing the duties of his or her office. Alternatively, the Board may be satisfied that the performance of the CEO has been unsatisfactory ~~for a significant period.~~

Subclause 37(2) provides for a number of specific circumstances where the CEO's appointment must be terminated for the purpose of maintaining the integrity of the Facility. These circumstances, including termination for bankruptcy, intend to ensure that the CEO is fiscally responsible.

Subclause 37(3) provides that if the CEO is appointed on a full-time basis, the Board may terminate the appointment if the CEO is absent, without leave, for 14 consecutive days or for 28 days in any 12 months, or engages in work outside the duties of the office.

Subclause 37(4) provides that the Board may terminate the appointment of a part-time CEO if he or she engages in work that gives rise to a conflict of interest with the proper performance of his or her CEO duties.

Subclause 37(5) provides that the Board may terminate the appointment of a CEO if the CEO does not comply with the special procedures under section 29 of the *Public Governance, Performance and Accountability Act 2013* (relating to where a CEO has disclosed a material personal interest).

Clause 38 – Staff

Clause 38 empowers the Facility to employ staff, if necessary, to fulfil its functions and powers, and to do so on terms and conditions determined, in writing, by the Facility. This clause also gives power to the Facility to enter into service arrangements with the Commonwealth, a State, a Territory or an agency of any government.

Clause 39 – Consultants

Clause 39 empowers the Facility to employ consultants, if necessary, to assist in the performance of its functions.

Part 7 – Miscellaneous

Clause 40 – Facility may charge fees

Clause 40 authorises the Facility to charge a fee for anything done in performing its functions. This fee will not amount to taxation. The purpose of this clause is to enable cost-recovery for the Facility in performing its functions.

Clause 41 – Appropriation of Consolidated Revenue Fund

Clause 41 provides that the Consolidated Revenue Fund is appropriated to the extent of \$5.0 billion. The funds are to be used to provide grants of financial assistance to the States and Territories for the construction of northern Australia economic infrastructure.

Clause 42 – Annual report

Clause 42 provides for what must be included in the annual report, prepared by the Board, and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013*.

Subclause 42(1) provides that the annual report, covering 12 months commencing from 1 July, must contain:

- the particulars of any changes to the Investment Mandate;
- an overview of the proposal notices given by the Facility to the Minister;
- an overview of any rejection notices provided by the Minister;
- the amounts of financial assistance provided by the Facility;
- the kinds of loan contracts used and their identifiable characteristics;
- the risks and returns to the Commonwealth; and
- a summary of any adjustments or concessions made by the Facility in relation to infrastructure projects that have not progressed as planned.

Clause 43 – Review of operation of Act

Clause 43 requires the Minister to conduct a review of the operation of the Act as soon as possible after three years from the commencement of the Act. This clause provides that the review must include consideration of whether the time limit of 30 June 2021, set out in clause 8 should be extended. The review must also consider the most appropriate governance structure for the Facility after 30 June 2021. The review must be tabled in each House of Parliament within 15 sitting days of the report being given to the Minister.

Clause 45 – Regulations

Clause 45 allows the Governor General to make regulations where permitted by this Act, or where necessary or convenient for the carrying out of this Act.