

## Introduction

### Background

- 1.1 On 17 March 2016, the Hon. Josh Frydenberg MP, Minister for Resources, Energy and Northern Australia<sup>1</sup> presented the Northern Australia Infrastructure Facility Bill 2016 (the Bill) and accompanying Explanatory Memorandum (EM)<sup>2</sup> to the Parliament.
  - 1.2 An associated bill, the Northern Australia Infrastructure Facility (Consequential Amendments) Bill 2016 was also presented to the Parliament on 17 March 2016.
  - 1.3 The purpose of the Bill is to establish the Northern Australia Infrastructure Facility (the Facility). The Facility will appropriate up to \$5 billion from the Consolidated Revenue Fund to provide financial assistance to infrastructure projects that stimulate economic and population growth in Northern Australia.<sup>3</sup>
  - 1.4 The Facility will be established in response to existing economic and social constraints to growing infrastructure in Northern Australia outlined as:
    - Greenfield projects which include: ‘... the halving of tenor for infrastructure debt, with the average duration for falling from around 11 years in 2007 to around six years in 2015’.<sup>4</sup>
    - Extreme climatic conditions.
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1 The definition of Northern Australia used in the Bill 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”’, EM, p.6.

2 On 1 April 2016 a revised Explanatory Memorandum (EM) was provided to the Committee and included in the evidence provided to the Committee as Submission 3.

3 Northern Australia Infrastructure Facility Bill 2016 (the Bill), p 2,20.

4 The Department of Industry, Innovation and Science, *Submission 3.1*, p.1.

- Low population density.
  - Remoteness.<sup>5</sup>
- 1.5 The second bill will provide the Export Finance and Insurance Corporation with the function of assisting the Facility.<sup>6</sup>
- 1.6 The Facility was announced by the Australian Government in the 2015-16 Budget. The Facility is also one of the major initiatives contained in the *Our North, Our Future: White Paper on Developing Northern Australia*.<sup>7</sup>
- 1.7 Clause 9 of the Bill requires that the Minister give directions to the Facility through a legislative instrument to be known as the Investment Mandate.<sup>8</sup> On 17 March 2016, the Hon Josh Frydenberg MP, Minister for Resources, Energy and Northern Australia released a draft copy of the Northern Australia Infrastructure Facility Investment Mandate Direction 2016 (the Investment Mandate) for public consultation.<sup>9</sup>
- 1.8 The Department of Industry, Innovation and Science outlined the purpose of the Facility and governance structure of the Facility and stated:

The Facility has been designed to provide concessional financing mechanisms for northern Australia economic infrastructure projects by operating in partnership with commercial and other financiers. It is intended to enable the construction of economic infrastructure which would not otherwise proceed, or would not proceed for some time without the Facility. The Facility aims to be credible in financial markets and will have an independent statutory board operating on a commercial basis to make investment decisions. The Board will be comprised of experts in a range of relevant infrastructure financing fields. The Minister will only have limited powers of direction in relation to the investment decisions of the Board. The Minister will not be able to direct the Board to make investments, and can only prevent an investment if it is against the national interest. The Facility is also working in partnership with the State and Territory Governments who will be responsible for delivering financing mechanisms on behalf of the Australian Government. The Facility will be consistent with all

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5 The Department of Industry, Innovation and Science, *Submission 3.1*, p.1.

6 Northern Australia Infrastructure Facility (Consequential Amendments) Bill 2016: Explanatory Memorandum, p.1.

7 Northern Australia Infrastructure Facility Bill 2016: Explanatory Memorandum (EM), p.1.

8 Bill, p.7.

9 The Hon. Josh Frydenberg MP and Senator the Hon Matthew Canavan, Media Release: 'Northern Australia Infrastructure Facility moves ahead', 17 March 2016, <http://www.minister.industry.gov.au/ministers/frydenberg-canavan/media-releases/northern-australia-infrastructure-facility-moves-ahead> Accessed 22 March 2016.

existing State, Territory and Commonwealth regulatory approvals processes.<sup>10</sup>

- 1.9 The Department of Industry, Innovation and Science also advised that ‘the design of the Facility has been informed by extensive stakeholder consultation.’<sup>11</sup> Further, ‘feedback received has been broadly positive and was reflected in the exposure draft of the Bill which was released for public comment on 28 January 2016.’<sup>12</sup>

## Overview and Purpose of the Bill

- 1.10 The Bill establishes the Facility and the governance and administrative structures necessary for the Facility to perform the function of providing financial assistance to economic infrastructure projects in Northern Australia.
- 1.11 The Facility will commence on 1 July 2016 and will be authorised to make investment decisions for a period of five years until 30 June 2021.<sup>13</sup>
- 1.12 The Bill establishes a Facility Board comprising a Chair and between four and six additional members.<sup>14</sup> The Board is required to include members with experience or expertise from a range of fields including ‘banking, finance, and infrastructure’.<sup>15</sup>
- 1.13 Operating on a commercial basis, the Board will be responsible for making investment decisions on project proposals.<sup>16</sup>
- 1.14 The Bill enables the Facility to employ staff, seek the services of staff from other Government agencies, and to employ consultants.<sup>17</sup>
- 1.15 The Bill requires that the (responsible) Minister provide direction on the functions of the Facility to the Board through the Investment Mandate. The Minister may not direct the Facility to provide financial assistance to a particular person or project.<sup>18</sup>
- 1.16 The Minister is required to consider financial assistance for proposed projects. The Minister may reject a proposal to provide financial assistance to a project on national interest grounds. In such a case the Minister must

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10 The Department of Industry, Innovation and Science, *Submission 3.1*, p.1.

11 The Department of Industry, Innovation and Science, *Submission 3.1*, p.1.

12 The Department of Industry, Innovation and Science, *Submission 3.1*, p.1.

13 EM, pp 6 and 8.

14 Bill, p.10.

15 EM, p.1.

16 EM, p.1.

17 EM, pp 13-15.

18 EM, pp 1 and 9.

present to the Parliament a rejection notice outlining the reasons for rejecting the proposal.<sup>19</sup>

- 1.17 The Facility will ‘act in partnership with relevant State and Territory Governments as well as private financiers who will provide the majority of financial support’.<sup>20</sup>
- 1.18 The Investment Mandate includes a list of mandatory criteria that project proposals must meet in order to be eligible to receive financial assistance from the Facility. The Investment Mandate also includes non-mandatory criteria with preference to be given to projects that also meet these criteria.<sup>21</sup>
- 1.19 The mandatory criteria require that financial assistance may only be given to projects that would be ‘unlikely to proceed, or would only proceed at a much later date’, without financial assistance.<sup>22</sup> The mandatory criteria also require that any loan provided to a project must be able to be repaid or refinanced.<sup>23</sup>

## Financial Impact

- 1.20 The cost of operating the Facility is estimated to be \$39.7 million over a five year period commencing in 2016-17. The cost is expected to be recovered by the Facility through fee revenue, which is estimated to be \$40.2 million over the same period.<sup>24</sup>

## Regulatory Impact Statement

- 1.21 The Department of Industry, Innovation, and Science has estimated (based on the provision of 25 loans with an average value of \$200 million over a 30 year period) that the regulatory cost of the Bill to business will be \$0.49 million per annum.<sup>25</sup> The regulatory implications for large businesses are anticipated to be low and there is no anticipated regulatory impact on ‘small business, community organisations or individuals’.<sup>26</sup> The Bill will be ‘offset against savings identified from the R&D Tax Incentive’.<sup>27</sup>

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19 EM, p.9 and 10.

20 EM, p.2.

21 Northern Australia Infrastructure Facility Investment Mandate Direction 2016: Explanatory Statement (ES), p.8.

22 Northern Australia Infrastructure Facility Investment Mandate Direction 2016 (IM), p.7.

23 IM, p.8.

24 EM, p.2.

25 EM, p.3.

26 EM, p.3.

27 EM, p.3.

## About the Inquiry

### Objectives and Scope

- 1.22 The purpose of the inquiry was to examine the legislative and implementation aspects of the Bill, rather than policy issues underpinning the proposed legislation.
- 1.23 The Seafarms Group Ltd, (a contributor to the Inquiry into Opportunities for Expanding Aquaculture in Northern Australia) was mainly concerned about the multiple user service approach of the proposed Facility in its 'potential to seriously compromise the Government's stated policy outcomes'.<sup>28</sup> A more detailed outline of the issues raised by the Seafarms Group Ltd. is included in Chapter 2.
- 1.24 Suncorp Group Limited (Suncorp), an insurance provider, suggested that when undertaking investment decisions the Facility should consider the resilience and disaster mitigation features of proposed infrastructure projects.<sup>29</sup>
- 1.25 Suncorp also suggested the model of support used by the Facility 'should be extended to provide government support for specific mitigation projects that would assist in making homes and communities in Northern Australia more resilient to the significant impacts of cyclones'<sup>30</sup>.
- 1.26 The Northern Australia Insurance Premiums Taskforce (the Insurance Taskforce) has recently been considering options to lower insurance premiums in areas of Northern Australia 'where the risk of cyclones has caused affordability concerns'.<sup>31</sup>
- 1.27 The Insurance Taskforce stated that mitigation measures were 'a sustainable way of reducing premiums [in] the long run'.<sup>32</sup> The Insurance Taskforce suggested that there were 'a range of relatively low-cost' options available to Governments to promote mitigation. These options included 'public works spending to reduce the risk of some forms of cyclone damage, such as flooding'.<sup>33</sup> The Government intends to provide a

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28 Seafarms Group Ltd., *Submission 1*, p. 2.

29 Suncorp Group Limited (Suncorp), *Submission 2*, p.1.

30 Suncorp, *Submission 2*, p.1.

31 The Hon. Kelly O'Dwyer MP, Media Release: 'Northern Australia Insurance Premiums Taskforce report released', <http://kmo.ministers.treasury.gov.au/media-release/020-2016/>, Accessed 5 April 2016.

32 Department of the Treasury, *Northern Australia Insurance Premiums Taskforce: Final Report*, November 2015, p.xvi.

33 Department of the Treasury, *Northern Australia Insurance Premiums Taskforce: Final Report*, November 2015, p.xvi.

response to the recommendations of the Insurance Taskforce by 30 June 2016.<sup>34</sup>

## Inquiry Conduct

- 1.28 The Bill was introduced into the House of Representatives on 17 March 2016 in addition to the Northern Australia Infrastructure Facility (Consequential Amendments) Bill 2016. Later that day, the Hon Josh Frydenberg MP, Minister for Resources, Energy and Northern Australia referred the Bill to the Joint Select Committee on Northern Australia (the Committee) for inquiry and report by 22 April 2016. The Committee subsequently adopted and commenced the inquiry into the provisions of the Bill, also on 17 March 2016.
- 1.29 On 17 March 2016, the inquiry was announced and submissions invited via a media release. Submissions to the inquiry were invited to be received by 31 March 2016.
- 1.30 The Committee received seven submissions and two exhibits, which are listed at Appendix A, and held one public hearing in Canberra on 8 April 2016. Witnesses who appeared before the Committee are listed at Appendix B.

## Reporting Date

- 1.31 The required reporting date for the Committee's inquiry into the Bill was 22 April 2016, however with the proroguing of the Parliament on 15 April 2016, the Committee will report out of session prior to the proroguing of the Parliament.

## Report Structure

- 1.32 Chapter 2 outlines the key clauses of the Bill and the issues presented in relation to these provisions and subsequent recommendations.
- 1.33 Chapter 3 outlines the key clauses and mandatory criteria of the Draft Northern Australia Infrastructure Facility Investment Mandate Direction 2016 which is to be made under proposed subsection 9(1) of the Northern Australia Infrastructure Facility Act. The Investment Mandate is created as part of the Bill.

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34 The Hon. Kelly O'Dwyer MP, Media Release: 'Northern Australia Insurance Premiums Taskforce report released', <http://kmo.ministers.treasury.gov.au/media-release/020-2016/>, Accessed 5 April 2016.