

# Northern Australia Infrastructure Facility Bill 2016

## Part 1 – Preliminary

### Key Clauses

- 2.1 **Subclause 2(1)** provides for commencement of the Northern Australia Infrastructure Facility Bill 2016 (the Bill) from 1 July 2016.<sup>1</sup>
- 2.2 **Subclause 3(1)** states that ‘the object of this Act is to provide grants of financial assistance to the States and Territories for the construction of Northern Australia economic infrastructure.’<sup>2</sup>
- 2.3 **Paragraphs 3(2)(a) and 3(2)(b)** respectively, defines the infrastructure covered by the Bill as infrastructure that: ‘provides a basis for economic growth in Northern Australia’ and ‘stimulates population growth in Northern Australia’.<sup>3</sup>
- 2.4 **Clause 4** provides an outline of the Bill noting that it: establishes the Northern Australia Infrastructure Facility; that the Facility ‘must act in accordance with directions given by the Minister’ in the Investment Mandate; and that the Minister may, after consideration, reject proposals for financial assistance.<sup>4</sup>

## Part 2 – Northern Australia Infrastructure Facility

### Key Clauses

- 2.5 **Clause 6** establishes the Northern Australia Infrastructure Facility (the Facility) as a body corporate that is subject to the *Public Governance, Performance and Accountability Act 2013* and is able to buy and sell property, can sue and also be sued.<sup>5</sup>

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

2 Bill, p.2.

3 Bill, p.2.

4 Bill, pp 2 and 3.

5 Bill, p.5.

- 2.6 **Paragraph 7(1)(a)** specifies that the function of the Facility is to ‘grant financial assistance to the States and Territories for the construction of Northern Australia economic infrastructure’.<sup>6</sup>
- 2.7 **Paragraph 7(1)(b)** states that it is also a function of the Facility to ‘determine terms and conditions for the grants of financial assistance’.<sup>7</sup>
- 2.8 **Paragraph 7(1)(c)** states that the Facility may also provide incidental assistance to the States and Territories in relation to administering financial assistance.<sup>8</sup>
- 2.9 **Subclause 7(2)** grants the Facility the ‘power to do all things necessary or convenient ... in connection with the performance of its functions’.<sup>9</sup> Subclause 7(2) enables the Facility to provide grants of financial assistance that include ‘loans, guarantees and other financing mechanisms’ with terms and conditions developed in agreement with the States and Territories.<sup>10</sup>
- 2.10 **Clause 8** ‘prohibits the Facility from making a decision to grant financial assistance after 30 June 2021’.<sup>11</sup> The Facility can however continue providing financial assistance after this date provided the decision to do so was made before 30 June 2021.<sup>12</sup>
- 2.11 **Subclause 8(2)** ‘allows the Facility to continue to deliver, manage and make decisions to vary any existing financial arrangements after 30 June 2021.’<sup>13</sup>

## Analysis

- 2.12 Part 1 of the Bill outlines the objectives of the Bill and provides supplementary information for remaining sections of the Bill.
- 2.13 Part 2 of the Bill establishes the Facility as an agency that will ‘operate independently from Government and use a corporate model of governance.’<sup>14</sup> Part 2 also specifies the functions of the Facility and provides a time limit for the Facility’s ability to make financial decisions.<sup>15</sup>

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6 Bill, p.5.

7 Bill, p.5.

8 Bill, p.5.

9 Bill, p.6.

10 Northern Australia Infrastructure Facility Bill 2016, Explanatory Memorandum (EM), p.8.

11 EM, p.8.

12 Bill, p.6.

13 EM, p.9.

14 EM, p.8.

15 Bill, p.6.

## Conclusion

- 2.14 The Committee's first report '*Pivot North: Inquiry into the Development of Northern Australia*' recognised that expansion and development of infrastructure in Northern Australia was crucial to generating long-term economic and population growth.
- 2.15 In *Pivot North* the Committee made fourteen recommendations concerning the provision of infrastructure to Northern Australia, including recommending the creation of a 'rural investment fund to provide opportunities for investors to participate in rural infrastructure development projects.'<sup>16</sup>
- 2.16 The Committee supports the establishment of the Northern Australia Infrastructure Facility. The Facility could potentially make a significant contribution to the development of critical infrastructure in Northern Australia.

## Part 3 – Investment Mandate

### Key Clauses

- 2.17 **Clause 9** stipulates that the Minister must provide direction for the Facility through the Investment Mandate and that the Facility must take 'all reasonable steps to comply with the Investment Mandate'.<sup>17</sup> The Investment Mandate is exempted from disallowance under the *Legislative Instruments Act 2003* (Cwlth).<sup>18</sup>
- 2.18 **Subclause 9(4)** ensures the Minister cannot direct the Facility to provide financial assistance 'for the construction of particular infrastructure' or 'in relation to a particular person'.<sup>19</sup>
- 2.19 **Clause 10** outlines the matters that may be covered by the Investment Mandate. These matters are listed in **Paragraphs 10(a) to (g)**:
- '(a) objectives the Facility is to pursue in providing financial assistance;
  - (b) strategies and policies to be followed for the effective performance of the Facility's functions;
  - (c) loan characteristics for circumstances in which financial assistance is used to provide or support loans;
  - (d) providing financial assistance for purposes other than to provide or support loans;

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16 Joint Select Committee on Northern Australia, *Pivot North: Inquiry into the Development of Northern Australia*, September 2014, p.185.

17 Bill, p.7.

18 EM, p.9.

19 Bill, p.7.

- (e) eligibility criteria for financial assistance;
- (f) risk and return in relation to providing financial assistance;
- (g) any other matters the Minister thinks appropriate.<sup>20</sup>

## Analysis

- 2.20 Part 3 outlines the role of the Investment Mandate, a legislative instrument used by the Minister to give directions to the Facility 'about the performance of its functions'.<sup>21</sup> The Investment Mandate may include directions in relation to the objectives and policies of the Facility, eligibility criteria for financial assistance, and the terms and conditions of loans provided.<sup>22</sup> The Minister cannot use the Investment Mandate to direct the Facility to provide financial assistance to a particular project or individual.<sup>23</sup>
- 2.21 Clause 9 requires the creation of the Investment Mandate through which the Minister provides direction to the Facility. A draft copy of the Investment Mandate was released on 17 March 2016 for public consultation.
- 2.22 The draft Investment Mandate contains seven mandatory criteria that a proposal must meet to be eligible for financial assistance. A detailed outline of the draft Investment Mandate is the subject of Chapter 3.
- 2.23 The Committee received evidence in relation to specific parts of the Investment Mandate made under Clause 9 of the Bill.
- 2.24 The Department of Industry, Innovation and Science (DIIS) outlined the requirements (in mandatory criteria 7) for project proponents to develop an Aboriginal and Torres Strait Islander engagement strategy. The DIIS stated that the purpose of the Aboriginal and Torres Strait Islander engagement strategy was to ensure that:
- ...where infrastructure is being built, the project proponent take into consideration engaging the Indigenous community. That may be through employment opportunities. ...The second aspect I guess, in terms of engagement, could relate to Indigenous groups investing in projects as well.<sup>24</sup>
- 2.25 The DIIS added that there would be a proportionality principle used in assessing the Aboriginal and Torres Strait Islander engagement strategy. Projects in areas with large Aboriginal and Torres Strait Islander
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20 Bill, p.7.

21 EM, p.9.

22 Bill, p.7.

23 Bill, p.7.

24 Mr Nathan Dal Bon, General Manager, DIIS, *Proof Committee Hansard*, p. 3.

populations would be expected to have a corresponding depth of engagement with the local Aboriginal and Torres Strait Islander population.<sup>25</sup>

- 2.26 Seafarms Group Ltd (Seafarms)<sup>26</sup> raised issues about Aboriginal and Torres Strait Islander cultural awareness, remoteness and biosecurity. In relation to Aboriginal and Torres Strait Islander awareness, Seafarms stated 'Indigenous and traditional owner rights and what an infrastructure investment may do to compromise sensitive cultural areas are also worthy of consideration'.<sup>27</sup>
- 2.27 Further, Seafarms raised the issue that remote agricultural infrastructure projects may struggle to attract multiple users and stated 'the remoteness and additional costs of developments in Northern Australia means there are often-times no other existing natural users of infrastructure'.<sup>28</sup>
- 2.28 Seafarms contended that project proposals should be based on commercial considerations rather than an arbitrary multi-user test and stated:
- ...applications should be based on commercial considerations such as the ability to service the loan under appropriate terms and considerations; an arbitrary 'multiple user test' would eliminate many projects in the north that could exhibit higher public returns in terms of economic impact and job creation.<sup>29</sup>
- 2.29 Seafarms was concerned about the possible exclusion of project proposals under the mandatory criteria and explained:
- ...the eligibility criteria may inadvertently act to prevent otherwise attractive proposals from being considered simply because of practical considerations such as biosecurity, Indigenous cultural maintenance and the need to locate agri-business projects in remote places for biosecurity reasons.<sup>30</sup>
- 2.30 The Department of Agriculture and Water Resources (DAWR) advised that it was 'in the process of developing guidelines for an aquaculture farm biosecurity plan'.<sup>31</sup> The DAWR highlighted the biosecurity risks posed to farms from the movement of goods and people. The farm

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25 Mr Dal Bon, DIIS, *Proof Committee Hansard*, p.3.

26 Seafarms Group Ltd (Seafarms) is the operator of a prawn farm in Queensland and the sponsor of a proposed 10 000 hectare prawn farm, parts of which are located in the Northern Territory and northern Western Australia.

27 Dr Christopher Mitchell, Executive Director, Seafarms Group Ltd., *Proof Committee Hansard*, Canberra, 8 April 2016, p. 15.

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

29 Seafarms, *Submission 1*, p. 2.

30 Seafarms, *Submission 1*, p. 3.

31 Department of Agriculture and Water Resources (DAWR), *Submission 4*, p.1.

biosecurity website<sup>32</sup> states 'if it can move, it can carry diseases, pests and weeds. For this reason people, vehicles and equipment pose a high biosecurity risk and should be managed accordingly'.<sup>33</sup>

- 2.31 In relation to the consideration of single-user infrastructure project proposals under the mandatory criteria the DIIS stated:

The mandatory criteria talk about this having public benefit. It has to have a capacity to spill over. Part of that is the dimension, which we have talked to a lot of stakeholders about, of single user or the potential to be multiuser infrastructure. It suggests in the criteria that the board will prefer that type of infrastructure that will allow many businesses to get going ... Ideally, a port expansion or a railway line obviously fills those things, because many users can use them and many businesses can take advantage of them. But we have been careful in the mandatory criteria to leave capacity for the board to consider a facility... that might be more suited to single user infrastructure, possibly the capacity in the future, but not at all [to] rule it out, and for it to be in front of the board.

Frankly, it is so an expert board can have a reasonable and sensible consideration of that type of issue.<sup>34</sup>

- 2.32 The DIIS further stated that while there would be a preference given for infrastructure projects that will enable as many users as possible, the public benefit or spillover of all project proposals will also be considered. The DIIS explained:

...because it is our expectation that the capacity for many users to use a piece of infrastructure would provide the greatest public benefit, but the fundamental test is the 'public benefit' test – what will have the greatest public benefit or spillover. And remember all of the other features too; we really do not want this Facility to be funding an activity that was going to happen on its own. So it is frankly to give a Board some flexibility to be reasonable in its assessment of those types of projects. You are correct to say that we have put into the Facility this preference for infrastructure that will enable as many business opportunities as possible, but

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32 The farm biosecurity website is a joint initiative of Animal Health Australia and Plant Health Australia. These two organisations are government-industry partnerships. See: [www.farmbiosecurity.com.au](http://www.farmbiosecurity.com.au), Accessed 13 April 2016.

33 DAWR, *Submission 4*, p.1.

34 Dr Steven Kennedy, Deputy Secretary, Department of Industry, Innovation and Science (DIIS), *Proof Committee Hansard*, Canberra, 8 April 2016, p.4.

fundamentally the test is one of what is going to have the greatest public benefit...<sup>35</sup>

- 2.33 Suncorp Group Limited (Suncorp), a provider of personal and commercial insurance products, suggested that ‘resilience and natural disaster mitigation features should be a key consideration in projects approved for funding’.<sup>36</sup>
- 2.34 Suncorp highlighted flood levees as an example of natural disaster mitigation infrastructure that can provide significant economic benefits. Suncorp stated that levees in the Queensland towns of Roma and St George have been estimated to provide ‘net benefits of \$64.7 million and \$25.7 million respectively over the next 50 years’.<sup>37</sup>
- 2.35 The DIIS stated that it anticipated that the Facility Board would consider the natural disaster resilience of projects when assessing the ability of proposed projects to repay loans provided by the Facility.<sup>38</sup>

## Conclusion

- 2.36 In January 2015, Infrastructure Australia released its *Northern Australia Audit* report. The Audit identified gaps in the provision of infrastructure in Northern Australia resulting in ‘unmet demand, missed opportunity, excessive pricing or poor service standard’.<sup>39</sup> The Audit also highlighted that there were a number of sources of market failure in the provision of infrastructure in Northern Australia which could require government investment.<sup>40</sup> The Audit found that:

Government investment will be necessary in some cases, but should only proceed where there is a clearly defined value to the taxpayer. Public sector investment should seek to maximise the role of the private sector to achieve innovation, service quality and, where feasible, competition.<sup>41</sup>

- 2.37 Seafarms and Suncorp have raised issues in relation to the criteria for determining the eligibility of proposed projects for financial assistance. The criteria are specified in the Investment Mandate, which is a legislative instrument, used by the Minister to provide direction to the Facility.
- 2.38 Seafarms has validly highlighted that Aboriginal and Torres Strait Islander cultural awareness, remoteness and biosecurity considerations

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35 Dr Kennedy, DIIS, *Proof Committee Hansard*, Canberra, 8 April 2016, p.4.

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

37 Suncorp, *Submission 2*, p. 2.

38 Dr Kennedy, DIIS, *Proof Committee Hansard*, Canberra, 8 April 2016, p.9.

39 Infrastructure Australia, *Northern Australia Audit*, January 2015, p.6

40 Infrastructure Australia, *Northern Australia Audit*, January 2015, p.15.

41 Infrastructure Australia, *Northern Australia Audit*, January 2015, p.4.

may make it impractical for an infrastructure project to be accessed by multiple users.

- 2.39 The Committee understands it will be necessary for the Facility to exercise discretion in order to support infrastructure projects that will have significant public benefits but where there are legitimate reasons why multiple user access is not appropriate. Taking this into consideration it appears this would include projects such as the one proposed by Seafarms. The Committee also understands that the spillover effects or public benefit in such instances will also be considered.
- 2.40 The Committee also believes that this is the intent underpinning the mandatory criteria in the Bill as stated by the Minister for Resources, Energy and Northern Australia, the Hon Josh Frydenberg MP in the second reading speech on presentation of the Bill. The Minister stated:
- ...the objectives of the Facility reflect the Government's priorities for the development of northern Australia and the importance of ensuring public funds are invested responsibly and for the benefit of the wider community.<sup>42</sup>
- 2.41 In areas that are vulnerable to natural disasters such as cyclones it may be appropriate for the Facility to consider the disaster resilience of proposed infrastructure projects.
- 2.42 The issues relating to the mandatory criteria in the Investment Mandate raised by Seafarms and Suncorp are worthy of consideration by the Department of Industry, Innovation and Science during the finalisation of the Investment Mandate. The Committee believes it is important to note that the issues raised by Suncorp are also matters which have been considered by the Northern Australia Insurance Premiums Taskforce and on which a Government response is expected by the end of June 2016.

## Part 4 – Consideration by Minister

### Key Clauses

- 2.43 **Subclause 11(1)** prohibits the Facility from providing financial assistance if the Minister has not finished considering the proposal or if the Minister has not approved financial assistance for the proposal.<sup>43</sup>
- 2.44 **Subclause 11(2)** stipulates that the Facility must provide the Minister with written notice of any proposal to provide financial assistance.<sup>44</sup>

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42 Hon Josh Frydenberg MP, Minister for Resources, Energy and Northern Australia, Second Reading Speech, Northern Australia Infrastructure Facility Bill 2016, p. 7.

43 Bill, p.8.

44 Bill, p.8.



- 2.45 **Subclause 11(3)** provides the Minister with 21 days (after the proposal notice is given) to consider the proposal with the possibility of extending this to 60 days through a written request to the Facility.<sup>45</sup>
- 2.46 **Subclause 11(4)** enables the Minister to reject financial assistance for a proposal by written notification to the Facility.<sup>46</sup>
- 2.47 **Subclause 11(5)** allows the Minister to inform the facility in writing that a proposal is rejected if the Minister is satisfied that the proposal is 'inconsistent with the objectives and policies of the Commonwealth Government' or could have 'adverse implications' for Australia's national security or international relations.<sup>47</sup>
- 2.48 **Clause 12** 'sets out the process whereby the Minister may reject a proposal to provide financial assistance under clause 11'.<sup>48</sup> Clause 12 also provides that the Minister must present their reasons for rejecting a proposal to Parliament within 20 sitting days of informing the Facility of the rejection.<sup>49</sup>

## Analysis

- 2.49 Part 4 of the Bill stipulates that the Facility must provide the Minister with written notice each time it proposes to provide financial assistance to a project. The Minister has 21 days (which may be extended by request to 60 days) in which to consider the proposal. The Minister may reject the proposal if it is not in the national interest, and if so, the Minister must present the reasons for their decision to the Parliament.<sup>50</sup>
- 2.50 The DIIS stated that the requirement for Ministerial consideration was modelled on the process in place for similar boards. The DIIS also stated that:

We are not anticipating, at this stage, building in a formal process where, for every project, the minister looks at it from a national interest point of view. ... that would be counter to the intent of the legislation, which is to establish an independent Board with good guidance to get on making investment decisions.<sup>51</sup>

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45 Bill, p.8.

46 Bill, p.8.

47 Bill, p.8.

48 EM, p.10.

49 Bill, p.9.

50 Bill, pp 8 and 9.

51 Dr Kennedy, DIIS, *Proof Committee Hansard*, p.8.

## Part 5 – Board of the Facility

### Key Clauses

- 2.51 **Clause 13** establishes the Board of the Facility and specifies that it consist of a Chair and between four and six members. The ‘Board may operate for up to six months with less than five Members without the function of the Board being affected.’<sup>52</sup>
- 2.52 **Clause 14** specifies the functions of the Board which include deciding ‘within the scope of the Investment Mandate, the strategies and policies to be followed by the Facility’, and ensuring the ‘proper, efficient and effective performance of the Facility’s functions’.<sup>53</sup> The Board is empowered to undertake ‘all things necessary or convenient’ to perform its functions.<sup>54</sup>
- 2.53 **Clause 15** stipulates that Board members are to be appointed (on a part-time basis) by the Minister and to hold office for a maximum of three years.<sup>55</sup>
- 2.54 **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 the Board’s objective to a commercial standard, in order to provide credibility in financial markets’.<sup>56</sup> In particular, **paragraphs 15(4)(a) to (h)** outline the following fields of experience or expertise, for Board Members:
- ‘(a) banking or finance;
  - (b) private equity or investment by way of lending or provision of credit;
  - (c) economics;
  - (d) infrastructure planning and financing;
  - (e) engineering;
  - (f) government funding programs or bodies;
  - (g) financial accounting or auditing;
  - (h) law.’<sup>57</sup>

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52 EM, p.10.

53 Bill, p.10.

54 Bill, p.10.

55 Bill, p.11.

56 EM, p.10.

57 Bill, p.11.

- 2.55 **Clause 16** allows the Minister to make an acting appointment as Chair during a vacancy in the office of Chair or when the Chair is absent from Australia or unable to perform their duties.<sup>58</sup>
- 2.56 **Clauses 17 and 18** outline the remuneration of Board members and other conditions including any leave of absence for the Chair or Board Members.<sup>59</sup>
- 2.57 **Clause 19** 'allows the Minister to determine any terms of a Board members employment not within the scope of the Act.'<sup>60</sup>
- 2.58 **Clause 20** allows Board Members to resign by written notice to the Minister.<sup>61</sup>
- 2.59 **Clause 21** provides the conditions under which the Minister can terminate Board appointments. These conditions include misbehaviour, unsatisfactory performance, bankruptcy, and being absent without leave from three consecutive meetings.<sup>62</sup>
- 2.60 **Clause 22** requires that the Board meet at least twice in each financial year and that meetings may be convened at the direction of the Minister or the Chair.<sup>63</sup>
- 2.61 **Clauses 23 to 26** outline the procedures to be used at Board meetings. If there are six or more appointed Members the quorum for a meeting is four Members, otherwise the quorum is three Members. The Chair must preside over the meeting if present or if absent the other Members must appoint a Member to preside during that meeting. Matters at the Board meeting are determined by majority vote and the Chair or Acting Chair has a casting vote in the event of equal votes. The Board must keep minutes for all of its meetings.<sup>64</sup>
- 2.62 **Clause 27** 'allows the Board to make decisions without conducting meetings' and outlines the process for making, recording, and communicating decisions.<sup>65</sup>

## Analysis

- 2.63 Part 5 establishes the Board of the Facility, specifies the functions and terms of appointment of the Board and the procedures used at Board

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58 Bill, p.11.

59 Bill, p.12.

60 EM, p.11.

61 Bill, p.12.

62 Bill, p.13.

63 Bill, pp 13-14.

64 Bill, p.14.

65 EM, p. 12.

meetings. The Minister will appoint a Chair and between four and six additional Board Members with relevant experience. The Board can continue operations for up to six months if its membership falls below five Members.<sup>66</sup>

## Part 6 – Administration

### Key Clauses

- 2.64 **Clauses 28 to 31** outline the responsibilities and conditions of appointment of the Chief Executive Officer (CEO). The CEO is to be appointed by the Board, on a full or part time basis, for a period of up to five years.<sup>67</sup> A board member cannot serve as the CEO.<sup>68</sup> The CEO 'is responsible for the day-to-day administration of the Facility' but must act in accordance with the directions and policies determined by the Board.<sup>69</sup> The Board may appoint an acting 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.'<sup>70</sup>
- 2.65 **Clauses 32 to 35** cover employment conditions of the CEO including that the Remuneration Tribunal determines the payment of the CEO, that the Board may approve leave of absence for the CEO, and that the CEO must obtain approval of the Chair to engage in outside work<sup>71</sup> (if full time), or refrain from engaging in outside work<sup>72</sup> that conflicts with the performance of their role (if part time).<sup>73</sup>
- 2.66 **Clause 36** enables the CEO to resign their appointment by written notice to the Board.<sup>74</sup>
- 2.67 **Clause 37** provides for conditions under which the CEO's appointment can be terminated by the Board, including misbehaviour, unsatisfactory performance, bankruptcy, extended absence without leave, and failure to comply with the *Public Governance, Performance and Accountability Act 2013*.<sup>75</sup>
- 2.68 **Clause 38** allows the Facility to employ staff to undertake its functions, to determine the conditions under which it employs these staff, and to make
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66 Bill, pp 10-15.

67 Bill, p.16.

68 Bill, p.16.

69 Bill, p.16.

70 EM, p.13.

71 Whether paid or unpaid.

72 Whether paid or unpaid.

73 Bill, pp 17-18.

74 Bill, p.18.

75 Bill, pp 18-19.

arrangements with other Government agencies for the recruitment of staff of these agencies.<sup>76</sup>

- 2.69 **Clause 39** allows the Facility to 'engage consultants to assist in the performance of its functions'.<sup>77</sup>

## Analysis

- 2.70 Part 6 of the Bill deals with the administration and staffing of the Facility. Part 6 authorises the Board to appoint a Chief Executive Officer (CEO) to the Facility and provides for the conditions of employment of the CEO. Part 6 also allows the Facility to appoint staff and arrange to use the services of staff from other Government agencies, as well as employ consultants.<sup>78</sup>

## Conclusion

- 2.71 The Committee understands that the Minister is in the process of considering appointments to the Board<sup>79</sup> and a possible CEO for the Facility.<sup>80</sup> The Facility will be based in Cairns and it is anticipated that the Secretariat will employ five staff, including the CEO. In addition, there will be an 'originating team' of approximately five staff whose role will involve identifying projects that could potentially be funded by the Facility.<sup>81</sup>

## Part 7 – Miscellaneous

### Key Clauses

- 2.72 **Clause 40** authorises the Facility to charge fees in the performance of its functions. The Bill's Financial Impact Statement estimates the Facility will cost \$39.7 million to operate over a five year period, but will generate \$40.2 million in fee revenue in the same period.<sup>82</sup>
- 2.73 **Clause 41** states that the Consolidated Revenue Fund will be 'appropriated to the extent of \$5 billion for the purposes of providing grants of financial assistance to the States and Territories for the construction of Northern Australia economic infrastructure.'<sup>83</sup>
- 2.74 **Clause 42** requires that the Facility prepare an annual report to be presented to the Minister. The annual report must include:

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76 Bill, p.19.

77 Bill, p.19.

78 Northern Australia Infrastructure Facility Bill 2016, pp 16-19.

79 Dr Kennedy, DIIS, *Proof Committee Hansard*, p.7.

80 Mr Dal Bon, DIIS, *Proof Committee Hansard*, p.7.

81 Mr Dal Bon, DIIS, *Proof Committee Hansard*, pp 5 and 6.

82 EM, pp 2, 16.

83 Bill, p.20.

- Information on any changes to the Investment Mandate and the impact of these changes;
  - A summary of proposal notices given by the Facility to the Minister and any rejection notices and reasons for rejection given by the Minister;
  - A summary of the amount of financial assistance provided by the Facility, the characteristics of loan contracts, risk and return to the Commonwealth, and any adjustments made to existing financial assistance due to projects not progressing as planned.<sup>84</sup>
- 2.75 **Clause 43** requires the Minister to conduct a review of the operation of the Northern Australia Infrastructure Facility Act three years after the Act commences.<sup>85</sup> The review must consider whether the 30 June 2021 time limit for financial assistance decisions should be extended, and the most appropriate governance arrangements after that date.<sup>86</sup> 'The review must be tabled in each House of Parliament within 15 sitting days of the report being given to the Minister'.<sup>87</sup>
- 2.76 **Clause 44** enables the Governor-General to 'make regulations where permitted by this Act, or where necessary or convenient for the carrying out of this Act.'<sup>88</sup>

## Analysis and Conclusion

- 2.77 Part 7 of the Bill specifies that the \$5 billion, the Facility is funded to distribute financial assistance 'to the States and Territories for the construction of Northern Australia economic infrastructure' and will be drawn from the Consolidated Revenue Fund.<sup>89</sup> Part 7 also outlines the Facility's reporting requirements and requires that after three years a review of the operations of the Northern Australia Infrastructure Facility Act be undertaken.<sup>90</sup>

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### Recommendation 1

- 2.78 **The Committee recommends that the Northern Australia Infrastructure Facility Bill 2016 be passed by the Parliament.**

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84 Bill, pp 20-21; EM, p.16.

85 Bill, p.21.

86 Bill, p.21.

87 EM, p.16.

88 EM, p.16.

89 Bill, p.20.

90 Bill, pp 20-21.