



Australian Government



Northern Australia Infrastructure Facility

Senator O'Neill
Acting Chair
Senate Standing Committee on Economics
Parliament House
CANBERRA ACT 2600

Dear Senator O'Neill

On reviewing the Proof Hansard of the testimony given by the NAIF at the Senate Economic Reference Committee (Committee) hearing for the Inquiry into foreign investment proposals on 15 May 2020, we find that some of the information provided to the Committee would benefit from clarification and correction.

The following exchange occurred between Senator O'Neill and Mr Chris Wade, Chief Executive Officer NAIF:

Acting Chair (Senator O'Neill): Thank you. Could I just ask about the decision around the funding of the Alinta Energy bid and the date of the announcement?

Mr Wade: The final investment decision was put to the minister in February 2019, and the announcement was in October 2019.

Acting Chair: Why was there such a significant delay?

Mr Wade: I'll correct that, sorry: the announcement would have been post the 21 days veto. I'm thinking more of the financial close announcement that we made in October 2019.

Acting Chair: Sorry—the financial?

Mr Wade: The financial close. As I went through the process, once it goes through the federal minister's veto process, we then go through a process with the states to finalise documentation. Once that documentation is finalised, we enter into a binding contract. That's what we did in October 2019. So there is a time difference between it going through the minister's veto process and then finalising that documentation.

Following the Investment Decision made 15 February 2019, there was no formal announcement of the Investment Decision until 18 October 2019. This was because specific details of the Investment Decision including the name of the proponent and the goods and services involved, remained commercial in confidence as the proponent finalised its project development and commercial negotiations.

As required in section 17(2) of the NAIF Investment Mandate, NAIF published, on its website, information on the Investment Decision that was not subject to commercial confidentiality on 27 April 2019.

Both contractual close and financial close was achieved on the project in November 2019.

I apologise for any inconvenience caused and ask that you alert other members of the Committee to this.

Yours sincerely

Chris Wade
Chief Executive Officer
NAIF

22 May 2020

Questions on Notice

1: Date that NAIF's process of engagement became through the Department of Industry on NAIF's behalf

"Once it goes past the federal minister's veto, the states still have a decision to proceed in relation to that. ACTING CHAIR: Thank you for making that very clear. I will just go to a specific example: the decision made in October last year where the NAIF and the then minister, Matt Canavan, awarded \$90 million to Alinta Energy Pty Ltd. Did that funding allocation follow that process? Mr Wade: It did. ACTING CHAIR: Were there any variations to it? Mr Wade: The only variation, in February 2018, was that we directly dealt with some departments—such as Treasury, for example—whereas in February 2019 that engagement was done by the Department of Industry on our behalf. That's really the only change. It was effectively the same level of engagement. ACTING CHAIR: Just a departmental shift from Treasury to Industry?

Mr Wade: Yes. Rather than NAIF directly interacting, it was more through the department. Just to give you a bit of background, that's an updated process for all our investment decisions as we further refined more efficient ways of doing things. ACTING CHAIR: What date do you think this became your official process, roughly? Mr Wade: I'd have to take that on notice."

The process of using the Office of Northern Australia to engage with other government departments on NAIF's behalf was in place by early 2017.

2. What interactions NAIF had with Andrew Forrest or Gina Rinehart, and to what extent, around the Alinta Energy transaction. All and any correspondence between the parties.

So you had no interactions with either Ms Rinehart or Mr Forrest at any point—NAIF had no interactions with them? Mr Wade: I'm not aware of any of those interactions. ACTING CHAIR: Could you take that on notice and, if there were any communications—telephone records or emails, for example—provide those?

ACTING CHAIR: Could I just confirm that I did ask clearly, on notice, for any and all communications between NAIF and Mr Andrew Forrest and Fortescue to be provided to the committee? They then also mention Gina Reinhart.

We are not aware of any interactions between Andrew Forest, Gina Reinhard and NAIF.

There is over 400 emails between NAIF and Fortescue plus attachments. The information in these emails includes:

- Meeting invites and responses
- Initial exchanges around a potential transaction
- The exchange of information on the project including potential structures and pricing
- Discussion of a potential indicative term sheet
- The exchange of information about Australian Industry Participation plans and Indigenous Engagement Strategies

- Discussion of various issues around publicising the transaction and the announcement

Due to the amount of emails that are required to be produced we have requested and been granted an extension until COB Wednesday 27 May 2020.

3. What officer level was the consult with Treasury?

ACTING CHAIR: Just to be clear, when NAIF awarded Alinta \$90 million, did you consider Alinta's ownership structure? Mr Wade: We did consider Alinta's ownership structure, and we detailed that in the papers in terms of the acquisition that happened in 2017. Again, that's why we confirmed with various departments as we went through our approval process.

ACTING CHAIR: So, you did confirm with Treasury. At what officer level would the consultation have taken place? Was it heads of departments? Was it you and the most-senior officer? Or would more junior officers who have undertaken that work? Mr Wade: I'll have to take that question on notice. I've been the CEO for only the past four months. In February 2019 the engagement was not directly by NAIF but through the department.

The Office of Northern Australia, Department of Industry, consulted on behalf of the NAIF with FIRB Treasury during November and December 2017, and again during February and March 2019 on the Chichester Solar Gas Hybrid project (Alinta Energy Group Pty Ltd). The consultation occurred between department officers, and the FIRB Treasury response to the Department was cleared at manager level in the Foreign Investment Division.

There was also communications between NAIF's Chief of Staff and Treasury officials to understand the processes.

4. Were there any plans in place to make the announcement earlier (October 2019), from the NAIF's perspective?

Senator PATRICK: I have one follow-up in relation to the question Senator O'Neill was asking about the time between the approval of the minister in February 2019 and the announcement in October. Were there any plans in place to make the announcement earlier, from the NAIF's perspective? Mr Wade: Not that I'm aware of. Senator PATRICK: Could you take that on notice and come back and advise us if that's different? Mr Wade: Yes.

Following the Investment Decision made 15 February 2019, there was no formal announcement of the Investment Decision until 18 October 2019. This was because specific details of the Investment Decision including the name of the proponent and the goods and services involved, remained commercial in confidence as the proponent finalised its project development and commercial negotiations.

Both contractual close and financial close was achieved on the project in November 2019.

Please see attached correction letter.

5. AIP plan associated with transaction.

Senator PATRICK: On notice, can you provide the committee with the AIP plan associated with that particular loan? Mr Wade: Yes.

An Australian Industry Participation Plan (AIP) is required as part of the approval process for a NAIF facility.

The full AIP plan is attached.

6. Tax jurisdiction: What NAIF's process is around identifying a tax haven entity and then what NAIF does to mitigate tax risks.

Senator PATRICK: But specifically, do you look at whether or not there's a related entity domiciled in a tax haven? The next question that flows from that is: then what do you do, noting that it in some sense creates a tax compliance risk or a transparency risk? Do you then place additional requirements on the company in relation to that risk? Mr Wade: In terms of checking, we do, as I understand it. But I can take that on notice.

Senator PATRICK: Yes, maybe you could come back with your process specifically in relation to that— obviously identifying a tax haven entity and then what you do in respect of that to mitigate tax risks and transparency such that you can get access to who really are the beneficiaries of any particular Commonwealth funds. Mr Wade: Yes, we'll take that on notice.

The NAIF has a process where it considers the ownership and management of the borrower, including detailed customer checks in relation to KYC and AML requirements, as well as reputational risks, at both the SAP and ID stages.

7. Does agreement with Alinta lock in cost reduction in access to power for local community?

Is there anything within the terms of the NAIF agreement with Alinta Energy that locks in a necessary cost reduction in access to power for the local community? Mr Wade: I'd have to take that on notice.

There is no provision in NAIF's agreement with Alinta to lock in cost reductions for other users.

8. Discussions with Treasury. Date of correspondence from FIRB.

Mr Wade: In February 2018 we did. We had correspondence with Treasury and FIRB as part of that initial strategic assessment. ACTING CHAIR: Could you confirm that there was a conversation between Carol Bellettini and Catherine Constable from the foreign investment division? Mr Wade: Yes, as far as I'm aware, based on the email evidence. I can confirm that

based on that material. ACTING CHAIR: What date was that? Mr Wade: I don't have the specific date. I've seen the emails, so I can take that on notice.

Yes, there was a conversation and it occurred over 20 February and 1 March 2018.

9. What criteria the Minister has to veto to reject a NAIF loan proposal.

what criteria the minister would have for vetoing a project? Mr Wade: In terms of criteria, one is looking in relation to the national interest. Sorry, my mind has just gone a bit blank. I do know these criteria; I apologise. Senator McDONALD: That's alright. Senator PATRICK: It's the limelight of the committee process, Mr Wade! Mr Wade: Sorry, just bear with me. I can confirm; I've just got a bit of a mental blank at the moment in relation to it. There are three criteria though. Senator McDONALD: Alright. Perhaps you'd take that question on notice then, as to what criteria the minister would have for using that veto to reject a NAIF loan proposal.

The NAIF Act section 11(5) outlines that the Minister can reject notices regarding NAIF transactions for the following reasons:

- (5) However, the Minister may give the rejection notice only if the Minister is satisfied that providing the financial assistance would:
 - (a) be inconsistent with the objectives and policies of the Commonwealth Government; or
 - (b) have adverse implications for Australia's national or domestic security; or
 - (c) have an adverse impact on Australia's international reputation or foreign relations.

<https://www.legislation.gov.au/Details/C2016A00041>