



Australian Government

**Department of Infrastructure, Transport,
Regional Development, Communications and the Arts**

Submission to the Senate Standing Committee on Rural and Regional Affairs and Transport

Inquiry into the Northern Australia Infrastructure Facility Amendment (Miscellaneous Measures) Bill 2023 [Provisions]

13 April 2023

Introduction

1. The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) welcomes the opportunity to make a submission to assist the Senate Standing Committee on Rural and Regional Affairs and Transport (the Committee) in its inquiry into the provisions of the Northern Australia Infrastructure Facility Amendment (Miscellaneous Measures) Bill 2023 (the Bill).
2. The Bill seeks to amend the *Northern Australia Infrastructure Facility Act 2016* (the Act) to implement the Government's October 2022-23 Budget decisions to increase the Northern Australia Infrastructure Facility's (NAIF's) appropriation from \$5 billion to \$7 billion, and to extend eligibility for NAIF financing to Christmas Island and the Cocos (Keeling) Islands, collectively known as the Indian Ocean Territories.
3. The Bill also clarifies that the objectives of the Act include the provision of financial assistance for the development of Northern Australia economic infrastructure for the benefit of Indigenous persons.

Policy Framework & Efficacy of the NAIF

4. The NAIF is established under the Act to provide financial assistance to the States and Territories and other entities for the development of Northern Australia economic infrastructure. Northern Australia economic infrastructure is defined in the Act as infrastructure that "provides a basis for economic growth in Northern Australia; or stimulates population growth in Northern Australia".
5. An independent board is established under the Act to make decisions on the provision of financial assistance for Northern Australia economic infrastructure. The NAIF Board is responsible for the strategies and policies to be followed by the NAIF, and to ensure the proper, efficient, and effective performance of the Facilities' functions. The NAIF may determine the terms and conditions for the provision of financial assistance.
6. Under the Act, the Ministers responsible for the NAIF are defined as the Minister for Finance (Senator the Hon Katy Gallagher) and the Minister for Northern Australia (the Hon Madeleine King MP) ('the Ministers'). The Ministers must give directions to the NAIF on the performance of its functions through an Investment Mandate (IM), and the Board must take all reasonable steps to ensure the NAIF complies with the IM.
7. On 12 December 2022, the Ministers jointly issued the NAIF with an updated Statement of Expectations (SOE) ([Appendix A](#)). This document outlines the Australian Government's expectations for the NAIF, and states all investments made by the NAIF must have a clear legislative basis and align with the Government's key priorities. On 9 February 2023, the NAIF provided its Statement of Intent (SOI) ([Appendix B](#)), which outlines how the NAIF Board will ensure Government's expectations will be met, consistent with NAIF's legislative framework and Government's policies in Northern Australia.
8. Amendments made to the Act through the *Climate Change (Consequential Amendments) Bill 2022* allow the NAIF to consider Australia's emissions reductions targets when determining the terms and conditions for the provision of financial assistance.
9. The NAIF is a key financing mechanism for the Government's agenda for sustainable and resilient economic development in Northern Australia. The Government's broader policy agenda relevant to NAIF includes the transition to a net zero economy, and investment in enabling infrastructure, critical minerals development, employment and skills.

10. In line with its objective of developing Northern Australia infrastructure, at the origination stage the NAIF does not prioritise or target specific sectors over others (i.e., is sector neutral), and is largely proponent-led. Under the Investment Mandate, however, the NAIF is obliged to consider a preference for: a diversified portfolio, including with respect to industry and geographic spread across the Northern Australia jurisdictions; projects that address an economic infrastructure need identified through a Commonwealth, state or territory assessment process, pipeline or priority list; or projects that materially improve the infrastructure of a region, or provide public benefits of a sufficient scale.
11. As at 31 March 2023, NAIF investment decisions totalled around \$4.0 billion, supporting projects with an estimated total capital value of more than \$15 billion, and according to NAIF's forecasts generating around \$29.7 billion in economic benefit and supporting around 16,000 jobs. These investments covered sectors including minerals and resources (including critical minerals and rare earths) at 53 per cent of the total number of funded projects, energy 19 per cent, transport infrastructure 14 per cent, social infrastructure 11 per cent, agriculture and water 2 per cent, and others the remaining 1 per cent.

Outline of the Bill

Amendments to increase the NAIF's appropriation

12. This Bill amends section 41 of the Act to increase NAIF's appropriation from \$5 billion to \$7 billion as announced by the Government in the October 2022-23 Budget. The additional \$2 billion will enhance the NAIF's capacity to provide financial assistance to businesses and communities in Northern Australia until the NAIF's investment window closes on 30 June 2026.
13. To date, the NAIF has committed around \$4 billion to projects, and reached contractual close on approximately \$2.8 billion of those deals¹. With NAIF quickly approaching the limit of its original \$5 billion appropriation, this Bill will ensure the NAIF receives additional funding to extend financing to contribute to the development of social and economic infrastructure in Northern Australia.
14. The Government's Statement of Expectations ([Appendix A](#)) articulates a non-exhaustive list of the Government's policy priorities and expects that the NAIF give its full support to the Government to ensure these policy areas are prioritised in delivering financial assistance. These policy priorities include, but are not limited to:
 - i. Materially improving the lives of First Nations people;
 - ii. Transitioning Australia's energy sector to net zero by 2050 and the reduction of Australia's emissions by 43 per cent by 2030;
 - iii. Transforming Australia into a renewable energy superpower, through the adoption of renewable energy and supporting the related industries such as critical minerals, hydrogen and battery production;
 - iv. Fixing and enhancing Australia's electricity transmission system;
 - v. Enhancing communications infrastructure;
 - vi. Supporting job creating projects that will contribute to secure working opportunities and economic growth in Australia's regional communities;
 - vii. Working with the States and Territories in delivering key infrastructure; and
 - viii. Supporting the required ancillary industries and businesses to support current and future key infrastructure developments.

¹ Reaching contractual close is the key point of economic enablement for NAIF's transactions.

Amendments to extend the definition of ‘Northern Australia’ to include the Indian Ocean Territories

15. This Bill amends section 5 of the Act to incorporate the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands, and the territorial sea adjacent to these territories, within the definition of the term ‘Northern Australia’.
16. By extending the definition of ‘Northern Australia’ in this manner, this Bill will enable the NAIF to provide financial assistance for the development of economic infrastructure that provides a basis for economic growth or stimulates population growth in the territories of Christmas Island and the Cocos (Keeling) Islands, collectively known as the Indian Ocean Territories.
17. Enabling the Indian Ocean Territories to access NAIF financial assistance will support opportunities for the Indian Ocean Territories and enable local businesses to diversify, and create economic development opportunities.
18. The economies of the Indian Ocean Territories exist in unique circumstances, and there are potential benefits from investment in sustainable diversification. The NAIF can assist proponents in the Indian Ocean Territories to realise this potential by providing concessional loans and other financing support to eligible projects.

Amendments to clarify the NAIF’s objective to provide financial assistance for the benefit of Indigenous people in the Act

19. The Bill amends section 7(1A)(b) of the Act to expressly refer to Indigenous persons, in place of a general reference to section 51(xxvi) of the Constitution. This change is largely administrative, and aligns the section with modern drafting practice.
20. To support this amendment, the Bill inserts a new additional object within the Act clarifying that the NAIF may provide financial assistance for the development of Northern Australia economic infrastructure for the benefit of Indigenous persons.
21. Clarifying that the persons to whom section 7(1A)(b) of the Act refers are Indigenous persons, and that an objective of the Act is to benefit Indigenous persons, removes potential ambiguity in the Act and expressly enables NAIF financial assistance to be provided for the benefit of Indigenous persons.
22. The Department considers this measure will ensure NAIF financing can support eligible projects aligning with the Government’s commitment to advance Indigenous outcomes and the whole-of-government agenda to Close the Gap.

Consultation

23. In preparing the Bill, the Department consulted with:
 - i. The Attorney-General’s Department
 - ii. Department of the Prime Minister and Cabinet, including the Office of Impact Analysis
 - iii. Department of Finance
 - iv. National Indigenous Australians Agency
 - v. Australian Government Solicitor
 - vi. Office of Parliamentary Counsel

Appendices

Appendix A – Statement of Expectations 2022

Appendix B – Statement of Intent 2023