

**Joint Select Committee on Northern Australia**  
**ANSWERS TO QUESTIONS RAISED IN PUBLIC HEARING**  
Industry, Innovation and Science

**INQUIRY INTO THE NORTHERN AUSTRALIA INFRASTRUCTURE FACILITY BILL 2016**  
**8 April 2016**

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**DEPARTMENT:** DEPARTMENT OF INDUSTRY, INNOVATION AND SCIENCE

**TOPIC:** Consideration of biosecurity in the Investment Mandate

**QUESTION No.:** 1 OF 2

**Senator IAN MACDONALD:** As I say, I have only just seen this this morning and I have not had a chance to talk to the Seafarms people. I know you would anyhow, but could I just ask you to listen to what they say? They are giving evidence by teleconference.

**Dr Kennedy:** Yes; we will stay for that.

**Senator IAN MACDONALD:** As a question on notice—asking the question that has not been put to you—could you respond to any concerns they might have?

...

**Senator IAN MACDONALD:** We have asked the department to listen to your evidence and, if there are questions which we need to raise with the department on clarification or otherwise, it would be good, if we have your view as a prospective—perhaps someone who might be interested in this whole process. If there are things that need to be clarified, if you could tell us now and we will try and get some response from the department, acknowledging that you have already had quite substantial consultations, as I understand, with the department and the people working on this.

**Dr Mitchell:** Thank you very much. I think, when I look at the wording now 'serve or have the capacity to serve multiple users', I guess it will ultimately rely on the interpretation of those words and how it is taken by people assessing loan applications. The drafting is adequate provided there is the interpretation to understand that there is that flexibility there.

**Senator IAN MACDONALD:** Is there anything that you could suggest that would take some uncertainty out of the interpret aspect?

**Dr Mitchell:** I think in general terms perhaps a reference to the biosecurity aspect might be useful. In terms of all food production projects—and not even this one but one can source seed perhaps within an irrigation project—you may want to actually protect the security of water supply to the particular way from a biosecurity perspective. By in some way elevating or acknowledging the significance of biosecurity in food production and agribusinesses might be useful. I do not have specific wording for that; that is just a general thought.

**ANSWER**

The draft Investment Mandate, released 17 March 2016, included revisions to the eligibility criteria contained in the November 2015 Consultation Paper.

The earlier requirement that projects must be capable of serving multiple users has been revised to the Board being required to preference projects that serve or have the capacity to serve multiple users and produce benefits to the broader economy and community.

All project applications will undergo assessment by the board of the Northern Australia Infrastructure Facility including assessment against all of the eligibility criteria.

The Department does not view it as necessary to list in the Investment Mandate types of infrastructure that may not be compatible with multi-user access.

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**QUESTION No.: 2 OF 2**

**Senator SIEWERT:** I understand that and I understand what you are saying, but thank you for expanding on that. My question was more that the power for the minister to reject it on the basis that it is inconsistent with objectives and policies is in the legislation, so what I was then looking at was will there be guidance developed around that for the minister and will it be publicly available so that the key things to be considered are fairly clear to the broader public and also to proposers of developments?

**Dr Kennedy:** The best thing for me to do there is come back to the committee on that, if you do not mind. I will seek some advice from the minister on that. As I said earlier, I am not anticipating an extensive process, but you are raising a reasonable issue: how would the public engage on that issue. So I will go to the minister and come back to you.

**ANSWER**

It is not common practice to define how Ministerial decisions are to be made, although processes, timeframes and transparency measures may be set in legislation.

- Section 59(4) of the *Clean Energy Finance Corporation Act 2012* provides that the relevant Minister may decide that an investment is not ‘a complying investment’ and direct the board to take action within a period specified by the Minister.
- Section 11 of the *Reserve Bank Act 1959* allows the Treasurer, subject to the agreement of the Governor-General, to change a policy of the Reserve Bank. The legislation defines the scope of any policy change, sets timeframes and requires details to be tabled in Parliament.
- On 8 April 2016, the Senate Economics Reference Committee reported on the inquiry into the foreign investment review framework. The Committee recognised the ‘validity in retaining the broad and unlegislated character in respect of the national interest test’ but seeks to increase clarity of the Treasurer’s decisions by recommending the publication of guidance on the steps of the process and the Treasurer’s rationale for decisions.

Consistent with the above, it is not intended to detail how the Minister may make decisions in relation to the Northern Australia Infrastructure Facility. This is consistent with the intent of the Bill for an independent board to make the financing decisions and the desire to not impose additional processes. A Ministerial decision to not support a proposal will require the reasons for the decision to be tabled in Parliament.