# Chapter 2

# Governance Framework

2.1 The objective of the Northern Australia Infrastructure Facility (NAIF) is to partner with the private sector and the Northern Territory, Western Australian and Queensland governments to provide grants of financial assistance for the construction of Northern Australian infrastructure.[1] The grants are expected to be in the form of concessional loans, guarantees and other financial mechanisms, to assist the construction of economic infrastructure which is expected to be repaid.[2]

2.2 This chapter outlines NAIF's legislative and corporate governance frameworks before examining the evidence received in relation to the effectiveness of how these frameworks function. It then considers NAIF's resourcing, and the relationships between NAIF, the federal government and the three northern state and territory jurisdictions.

## Legislative framework

2.3 The Department of Industry, Innovation and Science (department) was responsible for the development of NAIF's legislative framework and is responsible for its ongoing administration. The responsible minister for NAIF is the Minister for Resources and Northern Australia (the Minister), currently, Senator the Hon. Matthew Canavan.

2.4 NAIF was established by the *Northern Australia Infrastructure Facility Act 2016* (NAIF Act) in July 2016. NAIF is a corporate Commonwealth entity under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

2.5 The Department of Finance defines a corporate Commonwealth entity as 'a body corporate that has a separate legal personality from the Commonwealth, and can act in its own right exercising certain legal rights such as entering into contracts and owning property'.[3] As a corporate Commonwealth entity, NAIF is independent, however, is still subject to the whole of government accountability standards as outlined in the PGPA Act.

2.6 The NAIF Act establishes a Board of Directors, specifies its functions and the process for the appointment of new Board members. It also establishes a

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1 Replacement Explanatory Memorandum to the Northern Australia Infrastructure Facility Bill 2016, p. 2.

2 Replacement Explanatory Memorandum to the Northern Australia Infrastructure Facility Bill 2016, p. 7.

3 Australian Government, Department of Finance, Resource Management glossary—corporate Commonwealth entity (CCE). https://www.finance.gov.au/resource-management/pgpa-glossary/corporate-commonwealth-entity/ (accessed 22 May 2018).

Chief Executive Officer (CEO) who is responsible for the day-to-day administration of the NAIF, and outlines the appointment process for the CEO.[4]

2.7 The NAIF Act also provides for NAIF's Investment Mandate Direction (Investment Mandate), which is a legally binding Ministerial Direction that sets out how NAIF is expected to perform its functions.[5] In addition to the NAIF Act and the Investment Mandate, NAIF has established its own governance policies to inform and guide its decision making. The adequacy and effectiveness of NAIF's Investment Mandate and its governance policies are discussed in more detail below.

### *NAIF's role as a commercial financier*

2.8 NAIF is designed primarily to stimulate private sector involvement in the provision of infrastructure, while ensuring not to distort existing financing markets. As such, NAIF is intended to work in partnership with commercial financiers and consider the impact of its financial assistance on the infrastructure financing markets.

2.9 When established, NAIF was to act as a 'gap financier'. This meant that finance could only be provided where the project proponent had explored and exhausted all other options. NAIF financing was also contingent on total debt to government not exceeding 50 per cent of the total debt for the project, preventing it from becoming the primary source of debt for projects and competing with the private sector. Following the Expert Review conducted by Mr Tony Shepherd AO (Shepherd review) in 2018, the government implemented the review's recommendation 6 which relaxed this requirement, giving NAIF the option of lending up to 100 per cent debt for a project.[6]

2.10 The main mechanism by which the NAIF facilitates its support is through the provision of concessional financial assistance to the states and territories for the construction of economic infrastructure.[7]

2.11 Concessional finance can be in the shape of concessional loans which are loans that are extended on terms substantially more generous than market loans. The 'concessionality' is generally achieved either through interest rates below those available on the market or by extended grace periods, or a combination of these two factors. NAIF provides the following examples of the types of concessions it may offer:

- longer loan tenor than offered by Commercial Financiers, not exceeding the longest term of Commonwealth borrowings;

4 *Northern Australia Infrastructure Facility Act 2016*, Parts 5 and 6.

5 *Northern Australia Infrastructure Facility Act 2016*, ss. 9(1).

6 Senator the Hon. Matthew Canavan, Minister for Resources and Northern Australia, *NAIF changes to fast-track infrastructure investment*, 18 April 2018, http://minister.industry.gov.au/ministers/canavan/media-releases/naif-changes-fast-track-infrastructure-investment (accessed 4 July 2018).

7 Department of Industry, Innovation and Science, *Submission 42*, p. 4.

- lower interest rates than offered by Commercial Financiers, which must not be lower than the rate at which the Commonwealth borrows at;
- extended periods of capitalisation of interest beyond construction completion;
- deferral of loan repayments or other types of tailored loan repayment schedules;
- lower or different fee structures than those offered by Commercial Financiers; or
- ranking lower than Commercial Financiers for cash flow purposes.[8]

2.12 NAIF's progress in fulfilling its role as a commercial financier is discussed in more detail below.

## Investment Mandate

2.13 The Investment Mandate is a key element of NAIF's legislative framework as it directs NAIF on the Minister's expectations. The Investment Mandate is a non-disallowable instrument which means that it is exempt from scrutiny or disallowance by the Parliament. This is designed to balance the need for flexibility and market certainty, while maintaining transparency.[9]

2.14 The NAIF Act states that the Investment Mandate may include directions to NAIF on the following matters:

> (a) objectives the Facility is to pursue in providing financial assistance;
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> (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;
>
> (e) eligibility criteria for financial assistance;
>
> (f) risk and return in relation to providing financial assistance;
>
> (g) any other matters the Minister thinks appropriate.[10]

2.15 The Investment Mandate provides for alternative financing mechanisms, gives broad investment risk parameters, and outlines consultation processes and the relationship with other government entities.

8 Northern Australia Infrastructure Facility website—'Concessionality', http://naif.gov.au/about-naif-finance/concessionality/ (accessed 23 May 2018).

9 Department of Industry, Innovation and Science, *Submission 42*, p. 4.

10 *Northern Australia Infrastructure Facility Act 2016*, s. 10.

2.16 It also sets mandatory criteria that the NAIF Board must have regard to when making an Investment Decision.

***2016 Investment Mandate***

2.17 The Northern Australia Infrastructure Facility Investment Mandate Direction 2016 (2016 Investment Mandate) came into effect on 4 May 2016. However, as noted in Chapter 1, it was repealed and replaced on 2 May 2018 by the Northern Australia Infrastructure Facility Investment Mandate Direction 2018 (2018 Investment Mandate).

2.18 The 2016 Investment Mandate[11] sets out seven mandatory eligibility criteria and two non-mandatory eligibility criteria for the Board to consider when making an investment decision. The 2016 mandatory criteria stipulated that:

- The proposed Project involves construction or enhancement of economic infrastructure;
- The proposed Project will be of public benefit;
- The proposed Project is unlikely to proceed, or will only proceed at a much later date, or with a limited scope, without financial assistance;
- The Project is located in, or will have a significant benefit for, Northern Australia;
- Facility's loan monies are not the majority source of debt funding;
- The loan will be able to be repaid, or refinanced; and
- The proposed project must have an Indigenous engagement strategy (IES).

2.19 The non-mandatory criteria suggested:

- The proposed Project is seeking financing from the Facility for an amount of $50 million or more; and
- There is an identified need for the Project.[12]

2.20 Submitters raised concerns about certain aspects of both the mandatory and non-mandatory criteria contained in the 2016 Investment Mandate. In particular, submitters commented on the guidelines for the IES, the multi-user nature of proposed NAIF projects, and the non-mandatory $50 million minimum. Despite the introduction of the 2018 Investment Mandate, evidence received from submitters on these criteria retains its relevance as:

- the IES and the multi-user nature of proposed NAIF projects remain part of the mandatory criteria in the new 2018 Investment Mandate; and

11 Northern Australia Infrastructure Facility Investment Mandate Direction 2016 [F2016L00654], https://www.legislation.gov.au/Details/F2016L00654 (accessed 6 June 2018).

12 Northern Australia Infrastructure Facility Investment Mandate Direction 2016 [F2016L00654], Schedule 1, https://www.legislation.gov.au/Details/F2016L00654 (accessed 6 June 2018).

- although changes have been made to the non-mandatory $50 million minimum criteria in the 2018 Investment Mandate, the evidence received in relation to this criteria demonstrated the negative consequences of NAIF's poor communication of the most significant eligibility criteria.

2.21 These issues are discussed further below.

*Indigenous engagement strategy*

2.22 In relation to a project's IES, the Investment Mandates specifies that:

> The Project Proponent must provide a strategy which sets out objectives for Indigenous participation procurement and employment that reflect the Indigenous population in the region of the proposed Project.[13]

2.23 More detailed information on what NAIF expects to be contained in an IES is set out in NAIF's governance policy, *Indigenous Engagement Strategy Guideline* (IES Guideline). The IES Guideline specifies that a project proponent's IES must contain a number of components relating to Indigenous participation, employment, procurement and other overarching principles. The significant list of components includes:

- Identifies and engages with the correct stakeholders;
- Is based on sound data;
- Identifies existing community issues and commits to not further exacerbate (or to improve) these issues;
- Reflects local cultural protocols;
- Commits to viable, sustainable procurement targets; and
- Identification and recognition of the importance of cultural heritage protection[14]

2.24 For a number of the components, a note is included which indicates that 'targets may be negligible if local Indigenous businesses/population is nil or not significant'.[15]

2.25 The IES Guideline also notes clause 15 of the Investment Mandate which stipulates that project proponents must obtain all relevant regulatory approvals including Native Title and environmental approvals before any provision of finance.[16]

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13 Northern Australia Infrastructure Facility Investment Mandate Direction 2016 [F2016L00654], Schedule 1, https://www.legislation.gov.au/Details/F2016L00654 (accessed 6 June 2018).

14 Northern Australia Infrastructure Facility, *NAIF—Indigenous Engagement Strategy Guideline*, June 2017, pp. 2–6.

15 Northern Australia Infrastructure Facility, *NAIF—Indigenous Engagement Strategy Guideline*, June 2017, p. 5.

16 Northern Australia Infrastructure Facility, *NAIF—Indigenous Engagement Strategy Guideline*, June 2017, p. 6.

2.26 A condition of receiving a loan from NAIF is that the proponent agrees to maintain compliance with the IES Guideline. The IES Guideline notes that compliance may look different for each project and the monitoring of compliance may also vary noting that the Board can impose different reporting requirements on an individual basis.[17]

2.27 In regard to the IES, the committee notes that submitters were generally supportive of the inclusion of an IES. However, a number suggested that the IES Guideline may be insufficient because it does not require a project to set specific targets or levels of Indigenous participation for a proposed project.[18]

2.28 Mr Shannon Burns, Policy Officer from the Cape York Land Council (CYLC) commented that while the CYLC supported the intent of the mandatory criterion relating to Indigenous engagement, the criterion should be strengthened to include Indigenous involvement. Mr Burns specified that:

> We would like to see that made a mandatory criterion with set levels to be achieved for Indigenous employment and Indigenous service delivery. That should be a minimum level regardless of the Indigenous population in that region. But if there is significantly high Indigenous population—such as in Cape York, where there is a majority Indigenous population—then the level of Indigenous employment and procurement should be higher. We would point to the fact that the Australian government and the Queensland government already have Indigenous procurement policies. They mandate requirements for Indigenous investment, and we think the NAIF should mandate those requirements as well.[19]

2.29 The Northern Land Council made similar comments about NAIF's IES criterion and recommended that 'NAIF applications, as a requirement, [should] demonstrate consultation with affected Indigenous people in developing a project Indigenous engagement strategy'.[20]

2.30 The Wangan & Jagalingou Traditional Owners suggested in their submission that the Investment Mandate should be amended to contain 'proper consideration of, and investment in, culturally-aligned and self-determined Indigenous development'. The organisation commented that:

> The governance and operation of the NAIF does not serve us specifically as Traditional Owners…nor as Indigenous people in Northern Australia, historically disenfranchised while others have and still prosper from the

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17 Northern Australia Infrastructure Facility, *NAIF—Indigenous Engagement Strategy Guideline*, June 2017, p. 6.

18 See for example: Northern Land Council, *Submission 68*, p. 8; Wangan & Jagalingou Traditional Owners, *Submission 101*, p. 2; Cape York Land Council, *Submission 27*, p. 2; Union Aid Abroad, *Submission 35*, p. 2.

19 Mr Shannon Burns, Policy Officer, Cape York Land Council, *Committee Hansard*, 1 February 2018, p. 37.

20 Northern Land Council, *Submission 68*, p. 3.

> economically productive land base which was taken from us without consent or restitution.[21]

2.31 Mr Joe Morrison, CEO of the Northern Land Council also proposed a change to the Investment Mandate to introduce Indigenous impact assessments for project proposals. Mr Morrison argued that this would help in identifying the nature of each project's potential impacts, both detrimental and beneficial, on Aboriginal people.[22] Mr Morrison explained:

> We want to make sure that this is articulated in a way that it is separate from the Indigenous engagement strategy, which I think is important. But I think the requirement to ensure that there is individual impact assessments for all the projects that the NAIF is seeking to assist is undertaken as well.[23]

2.32 The Northern Land Council also proposed that each project proponent's IES ought to be made public.[24] The committee notes that as a document produced by a proponent in relation to due diligence processes, IES' are subject to NAIF's commercial-in-confidence policy and are therefore not published.[25]

*Multi-user infrastructure*

2.33 The 2016 and 2018 Investment Mandates both include a criterion relating to public benefit. In updating the Investment Mandate, the specific language used to describe the criterion has been altered, however, the intent of the criterion remains. The 2016 Investment Mandate specifies that in considering public benefit, the Board will give preference to those projects that will:

- serve or have the capacity to serve multiple users; and
- produce benefits to the broader economy and community beyond those able to be captured by Project Proponents.[26]

2.34 This concept was strongly supported by submitters, who acknowledged that NAIF investments had the ability to produce a significant positive knock-on effect in a number of areas through the delivery of a single project. Mr Chris Mitchell, CEO of the Regional Development Australia (RDA) Kimberley commented that:

> We believe there should be a bit more flexibility in relation to eligible infrastructure, particularly things like multi-user processing infrastructure. As part of the Commonwealth white paper looking at northern Australia as

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21 Wangan & Jagalingou Traditional Owners, *Submission 101*, p. 4.

22 Mr Joe Morrison, Chief Executive Officer, Northern Land Council, *Committee Hansard*, 2 February 2018, p. 11.

23 Mr Joe Morrison, Chief Executive Officer, Northern Land Council, *Committee Hansard*, 2 February 2018, p. 11.

24 Northern Land Council, *Submission 68*, p. 3.

25 Northern Australia Infrastructure Facility, *Confidentiality Policy*, June 2017, p. 5.

26 Northern Australia Infrastructure Facility Investment Mandate Direction 2016, [F2016L00654], Schedule 1, https://www.legislation.gov.au/Details/F2016L00654 (accessed 6 June 2018).

> a whole, we're looking at ways we can collaborate and do cross-border industry or infrastructure projects[27]

2.35 Mr Mitchell gave the example of a cold storage facility feasibility study that the RDA was conducting and pointed out that this was the type of project that would certainly fulfil the multi-user public benefit criterion as it would target pastoral, agricultural and horticultural industries simultaneously.[28]

2.36 Mr Peter Taylor, President of the Broome Chamber of Commerce and Industry agreed that multi-user infrastructure would be highly beneficial to an area such as the Kimberley region and that finding infrastructure projects that can be integrated into the existing infrastructure was an important consideration.[29]

2.37 The Institute for Energy Economics and Financial Analysis recommended that 'the preference for multi-user infrastructure should be reflected in NAIF's prioritization of projects for financing'.[30]

*$50 million non-mandatory minimum*

2.38 Under the 2016 Investment Mandate, there was a misapprehension by many stakeholders that projects, in order to be eligible, had to exceed a $50 million project threshold. The $50 million threshold is a minimum non-mandatory criterion which has been a source of confusion and frustration for many organisations—with the only clarification about this criterion in the 2016 Investment Mandate being that 'a Project proponent may aggregate multiple pieces of infrastructure into a single Project'.[31]

2.39 Ms Louise Talbot, General Manager of the department clarified that the $50 million minimum was set as a non-mandatory criteria, to provide NAIF with greater flexibility in its consideration of potential projects:

> Projects do not have to meet that criteria in order to be considered for funding for the NAIF. The NAIF is taking a flexible approach to that because in some jurisdictions that might be too big. The reason the threshold was set at $50 million is that the purpose of the $5 billion fund was to develop transformational infrastructure for the north. So it's got $5 billion and it has five years to run. The idea was that it would be involved in large transactions, not lots and lots of very small ones. But it is a non-mandatory criteria so that if a particular economic infrastructure

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27 Mr Chris Mitchell, Executive Officer, RDA Kimberley, *Committee Hansard*, 9 April 2018, p. 1.

28 Mr Chris Mitchell, Executive Officer, RDA Kimberley, *Committee Hansard*, 9 April 2018, p. 1.

29 Mr Peter Taylor, President, Broome Chamber of Commerce and Industry, *Committee Hansard*, 9 April 2018, p. 10.

30 Institute for Energy Economics and Financial Analysis, *Submission 85*, p. 5.

31 Northern Australia Infrastructure Facility Investment Mandate Direction 2016, [F2016L00654], Schedule 1, https://www.legislation.gov.au/Details/F2016L00654 (accessed 6 June 2018).

project comes forward that meets all the other criteria then the NAIF can consider it.[32]

2.40 As the minimum was non-mandatory, NAIF was able to consider smaller projects. NAIF explained to the committee that it chose the Onslow Marine Support Base Project as its first Investment Decision, in part, because it was under the $50 million threshold. NAIF had intended that this would encourage other smaller projects to come forward.[33]

2.41 Despite this clarification, the non-mandatory $50 million minimum remained a source of confusion for stakeholders and was generally viewed as the most significant obstacle by many prospective proponents who self-excluded their projects on this basis.

2.42 Ms Pip Close, CEO of Tourism Tropical North Queensland commented that there is a perception in the community that many small business operators had not applied for funding because they were put off by the $50 million minimum.[34]

2.43 Councillor Elizabeth Schmidt, President of the Northern Alliance of Councils Incorporated echoed this view and suggested that 'a single project or aggregate projects could be reduced to a figure more obtainable to regional councils'.[35]

2.44 Mr Morrison of the Northern Land Council proposed that the $50 million minimum could be lowered to invite smaller projects to consider applying for NAIF funding. Mr Morrison argued that this would give smaller Indigenous led projects a greater chance of development and consideration.[36] Further, Mr Morrison proposed creating an alternative lower threshold specifically for Indigenous led projects.[37]

2.45 Mr Greg Owens, CEO of the NT Farmers' Association also commented that a number of the members of the association had not considered applying for NAIF funding because the $50 million threshold was too high. Mr Owens was of the opinion that members of the association would be more likely to be considering projects that are in the $2 million to $5 million range.[38]

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32 Ms Louise Talbot, General Manager, Department of Industry, Innovation and Science, *Committee Hansard*, 11 August 2017, p. 43.

33 Ms Laurie Walker, Chief Executive Officer, Northern Australia Infrastructure Facility, *Committee Hansard*, 1 February 2018, p. 53.

34 Ms Pip Close, Chief Executive Officer, Tourism Tropical North Queensland for Queensland Tourism Industry Council, *Committee Hansard*, 1 February 2018, p. 22.

35 Councillor Elizabeth Schmidt, President, Northern Alliance of Councils Incorporated, *Committee Hansard*, 1 February 2018, p. 48.

36 Northern Land Council, *Submission 68*, p. 3.

37 Mr Joe Morrison, Chief Executive Officer, Northern Land Council, *Committee Hansard*, 2 February 2018, p. 10.

38 Mr Greg Owens, Chief Executive Officer, NT Farmers' Association, *Committee Hansard*, 2 February 2018, p. 15.

2.46 The committee notes that the 2018 Investment Mandate no longer includes the $50 million minimum non-mandatory criterion.

***2018 Investment Mandate***

2.47 The majority of the changes implemented by the 2018 Investment Mandate reflect recommendations made in the Shepherd review.[39] These recommendations and subsequent changes are discussed briefly below.

*Economic infrastructure*

2.48 The Shepherd review noted that it is difficult to define the exact nature of infrastructure projects that might be proposed for NAIF funding; and suggested this was because of the 'lack of mature industries and infrastructure' in Northern Australia.[40] Mr Shepherd concluded that projects most likely to request NAIF funding would be those seeking to create economic infrastructure. This formed the basis for:

> Recommendation 4—Infrastructure:
>
> The definition of 'economic Infrastructure' should be broadened in the Mandatory Criteria to recognise that in remote regions economic infrastructure stretches far further than the traditional roads, rail, power, water, ports, communications and airports. The definition needs to be broadened to include all those facilities, services and supplies, which are essential to the establishment of business in the location. The multi user test should be relaxed so that all that is required is for the proponent to contract on the basis that it will provide services to other users on reasonable commercial terms.[41]

2.49 In implementing Recommendation 4, the 2018 Investment Mandate gives the following description in relation to Mandatory Criterion 1—The proposed Project involves construction or enhancement of Northern Australia economic infrastructure:

> The Board must be satisfied that the Project incorporates (in whole or in part) construction or enhancement of physical structures, assets (including moveable assets) or facilities which underpin, facilitate or are associated with:
>
> (a) the transport or flow of people, goods, services or information; or
>
> (b) the establishment or enhancement of business activity in a region; or
>
> (c) an increase in economic activity in a region, including efficiency in developing or connecting markets; or
>
> (d) an increase in population.

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39 See Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018. In particular, recommendations 4, 5, 6, and 7 are implemented in the new 2018 Investment Mandate.

40 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 9.

41 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 9.

> The Project must bring new capacity online either through the construction of new infrastructure or by materially enhancing existing infrastructure.
>
> The refinancing of existing debt that does not involve the creation of new capacity is ineligible.[42]

*Crowding out test*

2.50 The Shepherd review also examined Mandatory Criterion 3 of the 2016 Investment Mandate—The proposed Project is unlikely to proceed, or will only proceed at a much later date, or with a limited scope, without financial assistance:

> The Project Proponent must demonstrate to the Board's satisfaction that financial assistance is necessary to enable the Project to proceed, or to proceed much earlier than it would otherwise.[43]

2.51 Mr Shepherd's assessment was that the criterion was causing NAIF to conduct a comprehensive analysis of finance market appetite for potential project to ensure that a gap in the market exists. He concluded that this was slowing down NAIF's processes by between two to three months and recommended:

> Recommendation 5—Crowding Out Test
>
> NAIF should rely on its own judgement on the impact on the market and market information and submissions by the proponents on whether NAIF participation is essential to facilitate the projector bring forward its delivery. NAIF should also make it clear that they are prepared to step back if the private sector can demonstrate that the project can be delivered in a timely manner without NAIF support.[44]

2.52 This recommendation resulted in the removal of the above mandatory criterion from the 2018 Investment Mandate.

*Debt cap*

2.53 Prior to the new Investment Mandate coming into force, NAIF was intended to act as a 'gap financier'. This meant that finance could only be provided where a project proponent had explored and exhausted all other options. Further, NAIF financing was not to exceed 50 per cent of total debt for the project, limiting its liabilities and preventing it from becoming the primary source of debt for projects and competing with the private sector. Any concessions provided by NAIF were to be limited to the minimum necessary for the project to proceed.

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42 Northern Australia Infrastructure Facility Investment Mandate Direction 2018 [F2018L00567], Schedule 1, https://www.legislation.gov.au/Details/F2018L00567 (accessed 6 June 2018).

43 Northern Australia Infrastructure Facility Investment Mandate Direction 2016 [F2016L00654], Schedule 1, https://www.legislation.gov.au/Details/F2016L00654 (accessed 6 June 2018).

44 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 18.

2.54 This was reflected in Mandatory Criteria 5 of the 2016 Investment Mandate—Facility's loan monies are not the majority source of debt funding.[45] In this context, NAIF's financing model was notably different to a similar Commonwealth entity, the Clean Energy and Finance Corporation (CEFC), which can provide 100 per cent debt finance.

2.55 The Shepherd review commented that 'this protection may be resulting in a number of worthwhile transformational projects capable of delivering significant public benefits being delayed or not proceeding'. Mr Shepherd proposed that:

> Relaxation or removal of the 50 percent debt cap may support the NAIF to utilise its higher risk tolerances to drive projects with significantly higher public benefit and to take more secure, lower risk positions in debt structures.[46]

2.56 In light of this, the Shepherd review made the following recommendation:

> Recommendation 6—Debt Cap:
>
> NAIF Mandatory Criterion 5 should be relaxed to allow NAIF to provide more than 50 percent of the debt of a project provided there is a reasonable level of private sector funding and risk in the project. NAIF should not be the major risk taker in an investment.[47]

2.57 This recommendation resulted in the removal of Mandatory Criterion 5 from the new 2018 Investment Mandate, such that NAIF is no longer solely a 'gap financier', and is able to provide up to 100 per cent of the debt for a project.

*Concessional finance*

2.58 The Shepherd review noted that the type of concession given to a project proponent can be important in assisting a project to succeed:

> Most developmental projects are at their most vulnerable in their early years. NAIF loan concessions in the form of a holiday for a specified period on the payment of interest and the repayment of principal create space for increased utilisation in the later years of an infrastructure asset's life. This could make all the difference to the viability of a project in the immediate term. [48]

2.59 The review put forward the following recommendation to address this issue:

> Recommendation 7—Concessional Finance:

45 Northern Australia Infrastructure Facility Investment Mandate Direction 2016 [F2016L00654], Schedule 1, https://www.legislation.gov.au/Details/F2016L00654 (accessed 6 June 2018).

46 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 19.

47 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 19.

48 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 19.

> The role of NAIF is not to make a 'profit' at least in the short term but to provide concessional finance to projects which would otherwise not proceed or not proceed for some time. In doing so, NAIF's prime consideration should be that there is a reasonable expectation that NAIF will be repaid. This gives NAIF great flexibility as to the level of concessions it can provide and it should fully exploit this flexibility within the constraint of only providing concessions to the level necessary to facilitate timely delivery of the project.[49]

2.60 The 2018 Investment Mandate has seen the removal of the following requirement from the body of the 2016 Investment Mandate:

> (b) there is an expectation that the Commonwealth will be repaid, or that the investment can be refinanced…[50]

2.61 However, Mr Shepherd maintains that the 2018 Investment Mandate's Mandatory Criterion 4[51] is sufficient in expressing the requirement of NAIF to ensure that there is a reasonable expectation of repayment:

> The loan will be able to be repaid, or refinanced.
>
> The Project Proponent must present comprehensive financial modelling to demonstrate the ability of the Project to repay the debt in full and on time, or refinance, based on assumptions acceptable to the Board.
>
> A relevant substitute for this criterion should be used for assessing Projects which request alternative Financing Mechanisms, as determined by the Board.[52]

*New mandatory criteria*

2.62 As a result of the review of the NAIF, the 2018 Investment Mandate now contains only five Mandatory Criteria (down from the original seven), and no non-mandatory criteria (down from the original two criteria):

- The proposed Project involves construction or enhancement of Northern Australia economic infrastructure;
- The proposed Project will be of public benefit;
- The Project is located in, or will have a significant benefit for, Northern Australia;
- The loan will be able to be repaid, or refinanced; and

49 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 20.

50 Northern Australia Infrastructure Facility Investment Mandate Direction 2016 [F2016L00654], p. 3, https://www.legislation.gov.au/Details/F2016L00654 (accessed 6 June 2018).

51 Mandatory Criterion 4 of the 2018 Investment Mandate is identical to Mandatory Criterion 6 of the 2016 Investment Mandate.

52 Northern Australia Infrastructure Facility Investment Mandate Direction 2018 [F2018L00567], Schedule 1, https://www.legislation.gov.au/Details/F2018L00567 (accessed 6 June 2018).

- The proposed project must have an Indigenous engagement strategy.

***Appropriateness of matters left to delegated legislation***

2.63 The NAIF Act stipulates a 'Limit on Investment Mandate'. This section specifies that:

> (4) The Investment Mandate must not direct, or have the effect of directing, the Facility to provide financial assistance:
>
> (a) for the construction of particular infrastructure; or
>
> (b) in relation to a particular person.

2.64 As such, the Minister cannot approve projects for funding. The Minister does, however, have a power of veto, which can only be applied on three specified grounds. After a consideration period, the Minister may notify NAIF that financial assistance should not be provided to a proponent only if the Minister is satisfied that a NAIF loan 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.[53]

2.65 Despite this limit on the Investment Mandate a number of submitters considered that the Investment Mandate placed too much power with the Minister.[54] In particular, the Australia Institute noted that a significant proportion of the basic financial definitions and mechanisms to guide NAIF are left to the Investment Mandate. The Australia Institute suggested that this type of information would be better placed in the NAIF Act—a primary piece of legislation, which is subject to scrutiny by the Parliament.[55]

2.66 Submitters also commented that, as the responsible Minister for NAIF, Minister Canavan's vocal promotion of coal had been detrimental to the way NAIF is perceived by the public. Due to the fact that the Minister is responsible for content of the Investment Mandate, some considered that the Minister's public announcements about coal related projects were tantamount to a direction to the NAIF.[56]

2.67 Ms Imogen Zethoven from the Australian Marine Conservation Society commented that:

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53 *Northern Australia Infrastructure Facility Act 2016*, ss. 11 (5).

54 See for example: The Australia Institute, *Submission 47*, p. 6; Greenpeace, *Submission 102*, p. 2; Ms Jody Williams, *Submission 81*, p. 3.

55 The Australia Institute, *Submission 47*, p. 6.

56 See for example: Professor Thomas Clarke, Professor of Corporate Governance, University of Technology Sydney, *Committee Hansard*, 11 August 2017, p. 2; Mr Thomas Swann, Researcher, The Australia Institute, *Committee Hansard*, 11 August 2017, p. 26.

> …when ministers—Minister Canavan, Minister Joyce—have made public comments stridently in support of a particular proposal, it obviously places political pressure on a government body to influence their decision. It's undeniable that it would build pressure on that body to make a decision that was favourable to what very senior leaders of the government would want.[57]

2.68 Ms Sandra Williams, a North Queensland resident, considered that the Minister's continued public commentary on NAIF projects was worrisome. Indeed, Ms Williams thought that only having one responsible minister for NAIF was a 'major concern'.[58]

2.69 Professor Thomas Clarke, Professor of Corporate Governance at the University of Technology Sydney, shared this view and commented that:

> Given the lack of any viable form of accountability and transparency in the decision making of the NAIF Board, it does appear a fatal flaw of the Northern Australia Infrastructure Facility Act 2016 that recommendations of the NAIF are subsequently referred to a single Minister.[59]

2.70 The Australia Institute noted that other agencies comparable to NAIF have two responsible Ministers, which in their view, provides for better oversight and more accountability in decision making. In particular, the Australia Institute pointed to the CEFC as an example of a corporate Commonwealth entity with two responsible Ministers.

2.71 The Australia Institute suggested that NAIF processes would benefit from having two responsible Ministers,[60] and proposed that the Minister for Finance would be an appropriate appointment in this instance—to act alongside the Minister for Resources and Northern Australia:

> It is a similar arrangement to the CEFC, but, unlike the CEFC and other similar agencies, almost everything in the NAIF Act and the NAIF mandate where the minister has power or discretion is the discretion of one minister, rather than two. Normally it's the finance minister as well as the responsible minister. This seems to be a reform to bring it into line with other agencies.[61]

## Governance policies

2.72 In conjunction with the NAIF Act and Investment Mandate, NAIF and its board are governed by a number of policies, including the following:

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57 Ms Imogen Zethoven, Campaign Director, Great Barrier Reef, Australian Marine Conservation Society, *Committee Hansard*, 1 February 2018, pp. 31–32.

58 Ms Sandra Williams, *Submission 7*, p. 2.

59 Professor Thomas Clarke, *Submission 30*, p. 3.

60 The Australia Institute, *Submission 47*, p. 6, p. 26.

61 Mr Thomas Swann, Researcher, The Australia Institute, *Committee Hansard*, 11 August 2017, p. 26.

- NAIF Board Charter
- NAIF Board Audit and Risk Committee Charter
- Anti-Corruption Policy
- Confidentiality Policy
- Conflict of Interest Policy
- Freedom of Information Policy
- Incident Reporting Policy
- Indigenous Engagement Strategy Guideline
- Environment and Social Review of Transactions Policy
- Staff Securities Trading Policy
- Privacy Policy
- Public Interest Disclosure Policy
- Public Benefit Guideline.

2.73 These policies are available on NAIF's website, and are subject to review annually.[62]

2.74 NAIF has advised that these policies reflect current Australian best practice government governance principles and current Australian best practice corporate governance for commercial financiers.[63] NAIF's submission to the inquiry noted that these policies have been reviewed by Allens Linklaters and found to be compliant with these two sets of principles.[64]

2.75 Mr John Hopkins, General Counsel of the Export Finance and Insurance Corporation (Efic) advised the committee that Efic had assisted NAIF in its in set up. Mr Hopkins explained that:

> NAIF has taken advantage of the fact that we are an established organisation with established policies, governance frameworks, board, and financial mechanisms and administration—the idea being that rather than recreate some of the more back office or administrative aspects of an organisation they would be able to initially rely on Efic's expertise, and that's what's happened.[65]

62 All policy documents listed are available on NAIF's website: NAIF Act and Governance, http://naif.gov.au/about-us/naif-governance/ (accessed 24 May 2018).

63 Northern Australia Infrastructure Facility, *Submission 43*, p. 4.

64 Schedule 6—Attachment 1, Northern Australia Infrastructure Facility, *Submission 43*, pp. 14–15.

65 Mr John Hopkins, General Counsel and Board Secretary, Export Finance and Insurance Corporation, *Committee Hansard*, 11 August 2017, p. 32.

2.76 Some submitters expressed concern that NAIF had commenced receiving inquiries and assessing projects prior to the finalisation of the above policies and questioned whether this was appropriate given the large sum of money involved.[66]

2.77 In particular, the Australia Institute noted that although NAIF was established in July 2016, and had commenced some due diligence processes in December 2016, the majority of its governance policies are dated June 2017.[67]

2.78 The Australian Conservation Foundation commented that the delayed publication of these documents was 'concerning' and suggested that it was unclear 'what processes NAIF was using to assess these projects, given that important policy documents had not been finalised at the date of their consideration'.[68]

2.79 Several of these policies are discussed in greater detail in Chapters 3 and 4 of the report.

## Resourcing

2.80 At the same time that the NAIF Act was passed, the Parliament passed the *Northern Australia Infrastructure Facility (Consequential Amendments) Act 2016* which amended the *Export Finance and Insurance Corporation Act 1991* (Efic Act) to provide Efic with the ability to provide assistance to NAIF in the performance of its functions as well as to assist, on agreement, the relevant states and territories in relation to financial arrangements and agreements related to the terms and conditions of grants of financial assistance for the construction of Northern Australia economic infrastructure.[69]

2.81 Efic has a service level agreement (SLA) with NAIF. As an experienced financier with expertise in managing large and complex lending transactions, such as those that NAIF makes, Efic's role is to support NAIF's day-to-day operations.

2.82 The SLA allows Efic to perform:

- Transaction due diligence, environment and technical review, credit assessment, and loan management; and
- Corporate and administrative services (including secretariat and board secretary, legal, compliance, financial management and reporting, human resources, information technology and communications, property management).[70]

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66 See for example: Market Forces, *Submission 69*, p. 2; Greenpeace Australia Pacific, *Submission 102*, p. 2.

67 The Australia Institute, *Submission 47*, p. 18.

68 Australian Conservation Foundation, *Submission 26*, p. 9.

69 Export Finance and Investment Corporation, *Submission 8*, p. 2.

70 Export Finance and Investment Corporation, *Submission 8*, p. 2.

2.83 Mr John Hopkins, General Counsel and Board Secretary for Efic specified that in undertaking due diligence work for NAIF, Efic can only do so at NAIF's request.[71] Mr Hopkins explained that:

> …in terms of the transaction process: as you articulated earlier, discussions take place. These are extremely large transactions, and I know from an Efic point of view in dealing in project finance transactions that they can take not just many months but many years to reach a point where information is capable of being put together for decision. For large transactions, similar to the ones that NAIF would be considering, it takes a long time. During that process you are gathering information along with a number of other different transactions, and they are in a pipeline of transactions. Eventually, some transactions reach a crescendo where there is enough information and a credit paper is put together. It discusses whether or not the transaction is creditworthy, and also some legal due diligence and other things are done. Then it is taken through the decision process within management and then to the board.[72]

2.84 In its 2016–17 annual report, NAIF confirmed that is has access to over 110 of Efic's staff, and had, at the time of publication, utilised over half of this number including the Chief Financial Officer, General Counsel, Board Secretary, Head of Policy Compliance, Head of Human Resources, Project Finance Environment and Technical Review, Credit and Portfolio Management.[73]

## State and territory governments

2.85 As noted at the beginning of this chapter, the object of the NAIF Act is 'to provide grants of financial assistance to the States and Territories for the construction of Northern Australia economic infrastructure'.[74]

2.86 The relevant jurisdictions under NAIF are Queensland, Western Australia and the Northern Territory. The role of the states and territory in NAIF is essential to ensure effective delivery, and achievement of NAIF's objectives and government infrastructure policy. The building of infrastructure that provides a basis for economic growth and stimulates population growth, will impact the economies of the relevant states and territory.

### *Master Facility Agreements*

2.87 The relationship between NAIF, the Federal Government and each state and territory is governed by three unique Master Facility Agreements (MFAs), one with each jurisdiction.

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71 Mr John Hopkins, General Counsel and Board Secretary, Export Finance and Insurance Corporation, *Committee Hansard*, 11 August 2017, p. 33.

72 Mr John Hopkins, General Counsel and Board Secretary, Export Finance and Insurance Corporation, *Committee Hansard*, 11 August 2017, p. 35.

73 Northern Australia Infrastructure Facility, *Annual Report 2016–17*, p. 32.

74 *Northern Australia Infrastructure Facility Act 2016*, p. 2.

2.88 The MFAs outline the key principles and arrangements agreed between the parties, which will be adhered to in drafting and executing the project finance documents. The MFAs set out arrangements for issues such as the process for the jurisdiction's role in administering finance agreements, the sharing of costs between the Commonwealth and the jurisdiction, the flow of funds repaid by finance recipients, and the exposure of each party in the event of a default by finance recipients.

2.89 The MFAs with Queensland and Northern Territory came into effect on 3 April 2017. The Western Australian agreement was finalised on 2 November 2017.

2.90 The MFAs state that NAIF will provide a Financing Mechanism to the relevant state or territory in order to provide funding to the Project Proponent.[75]

2.91 The MFAs describe two main types of Financing Mechanism: loans and State Guarantee Payment Undertakings. In the case of a loan, the funds are given to the state or territory by NAIF; the state or territory then pays those funds forward to the project proponent. A State Guarantee Payment Undertaking is more complex and relies on the state or territory providing funds to the project proponent and then advising NAIF of the amount to be repaid to the state or territory. The MFAs also provide that other Financing Mechanisms may be agreed upon; however, these are not detailed in the agreements.[76]

2.92 The Financing Mechanisms are designed to ensure that the financial risk is ultimately carried by the Commonwealth, not by the state or territory, however, the relevant jurisdiction is the lender of record.[77]

2.93 The MFAs also set out how re-payments from project proponents are transferred from the state or territory to NAIF.

### *Consultation on potential projects*

2.94 The northern jurisdictions do not have a role in selecting or assessing the projects that make an application for funding from NAIF. However, NAIF must consult the relevant jurisdictions prior to making an Investment Decision. Section 13 of the Investment Mandate[78] outlines the form of this consultation and provides the relevant jurisdiction with a clear veto power over individual project decisions.[79]

2.95 The Shepherd review commented that 'full and effective engagement' with the northern jurisdictions is vital to NAIF's success. The review also found, however, that

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75 Australian Government, Section 2, *Master Facility Agreement—Northern Australia Infrastructure Facility*, p. 2.

76 Australian Government, Sections 4 and 5, *Master Facility Agreement—Northern Australia Infrastructure Facility*, pp. 5–6.

77 Northern Australia Infrastructure Facility, *Submission 43*, p. 33.

78 Section 13 of the 2016 and 2018 Investment Mandates are identical.

79 Northern Australia Infrastructure Facility Investment Mandate Direction 2016 [F2016L00654], pp. 5–6, https://www.legislation.gov.au/Details/F2016L00654 (accessed 6 June 2018).

there is a 'lack of strong engagement' between NAIF and each of the northern jurisdictions which had 'adversely impacted on the progress of the NAIF'.[80]

2.96 While the Investment Mandate requires NAIF to consult with the relevant jurisdictions as soon as practicable after receiving an Investment Proposal, the Shepherd review made the following recommendation concerning the relationship between NAIF and the states and territories:

> Recommendation 10—Relationship with States and Territories
>
> The working relationship with the States and Territories on NAIF should be strengthened at both the Government level and NAIF level. The responsible jurisdiction should be consulted as early as practicable in the assessment process by NAIF and kept appraised of all relevant developments. It is important that NAIF remains the point of contact with the jurisdiction and the Government acts in a facilitating role.[81]

2.97 The Shepherd review also considered the role of the Commonwealth in facilitating NAIF's activities, commenting that the Commonwealth has a responsibility to 'smooth the way' for projects identified as a priority. Mr Shepherd proposed that this involvement from the Commonwealth could be exercised either through the Minister or the department. He noted that this approach is already used by the department's Major Project Facilitation Agency.

> Recommendation 11—Commonwealth Role
>
> The Commonwealth should adopt a 'whole of Government' approach on active NAIF projects and facilitate cooperation from other Commonwealth Departments or agencies, which may have a role in the project or its approval. The Department is best placed to act as a coordinator.[82]

2.98 The Shepherd review noted that some projects that NAIF might consider could also be eligible for funding from the CEFC, and pointed out that there is not currently any formal relationship between the two government entities. Mr Shepherd proposed that in order to avoid an 'inefficient competitive model between two Commonwealth financiers',[83] that formalising the relationship between NAIF and the CEFC would assist the two entities in achieving the Commonwealth's overall policy objectives:

> Recommendation 14—CEFC
>
> The two responsible Ministers should agree on a Memorandum of Understanding between NAIF and CEFC on their modus vivendi on

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80 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, pp. 22–23.

81 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 23.

82 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 23.

83 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 27.

> projects falling under both their mandates. The goal is to establish a partnership approach using the skills and experience and mandates of both organisations.[84]

## Committee view

2.99 The majority of evidence received by the committee was not complimentary of NAIF's governance framework, claiming it was severely inadequate to ensure effective oversight of the NAIF's performance of its role as a commercial financier.

2.100 The committee is pleased the government acknowledged the necessary changes required of NAIF's legislative framework, particularly its Investment Mandate, and sought to address these issues by commissioning Mr Tony Shepherd AO to undertake a review of the NAIF. The committee welcomes the implementation of a number of the recommendations made by Mr Shepherd, in the form of the 2018 Investment Mandate. In particular, the committee notes that the removal of the 50 per cent debt cap (Recommendation 6) on NAIF financing has brought NAIF in line with other Commonwealth investment entities, notably the Clean Energy Finance Corporation (CEFC). While the committee recognises the Shepherd review's observations that 'transformational projects capable of delivering significant public benefits [are] being delayed or not proceeding' as the rationale for removing the debt cap on NAIF, the committee is cognisant that the removal of the debt cap will shoulder more financial liability onto the Commonwealth and ultimately onto the Australian taxpayer. The committee therefore supports the intent of the second part of Recommendation 6 that, 'NAIF should not be the major risk taker in an[y] investment'. Implementation of this recommendation should naturally increase the expectation for greater transparency and accountability even more than before.

2.101 The committee is mindful of the importance of Indigenous participation in NAIF projects, and observes that NAIF has an important role to play in ensuring Indigenous participation, employment, and procurement in the projects it funds. The committee urges NAIF to consider the suggestions made by Indigenous representative bodies during the course of this inquiry and to work together with them to improve NAIF's Indigenous engagement.

2.102 The committee agrees with Mr Shepherd's assessment of NAIF's relationship with the states and territory, and recognises that 'full and effective engagement' with the northern jurisdictions is vital to NAIF's success. It is apparent to the committee that the lack of strong engagement between NAIF and each of the northern jurisdictions has adversely impacted on the early progress of NAIF. The committee encourages the government to consider Recommendations 10 and 11 of the Shepherd review and is hopeful that NAIF will actively take steps to improve its relationship with the states and territory.

2.103 Based on the evidence received, the committee considers that NAIF would benefit from shared ministerial oversight to ensure that the high governance and

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84 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 27.

management standards the community expect are enforced. The committee believes that the introduction of a second responsible Minister for NAIF would provide for greater accountability in NAIF's processes and decision making. This change will align NAIF more closely with the governance and objectives of other similar Commonwealth investment funds like the CEFC. In this context, the committee is of the view, that like the CEFC, the Minister for Finance would be an appropriate appointment in this instance—to act alongside the Minister for Resources and Northern Australia.

2.104 Furthermore, in terms of directing limited resources appropriately, the committee notes and agrees with the Shepherd review's observation that some projects considered by NAIF may also be eligible for funding from the CEFC. The committee considers this observation to be very pertinent and in order to avoid any competition or inefficient distribution of Commonwealth-backed finance between the two government agencies a Memorandum of Understanding between agencies ought to be established expeditiously.

**Recommendation 1**

**2.105 The committee recommends that the *Northern Australia Infrastructure Facility Act 2016* be amended to require two responsible Ministers (the Minister for Resources and Northern Australia and the Minister for Finance) to provide oversight of the Northern Australia Infrastructure Facility.**

**Recommendation 2**

**2.106 The committee recommends that the Northern Australia Infrastructure Facility should establish a Memorandum of Understanding with the Clean Energy Finance Corporation to allow information and processes to be shared on projects that have applied to both agencies, ensuring work is not duplicated.**

***Indigenous Engagement Strategy***

2.107 The committee believes that Indigenous participation in NAIF projects is crucial to NAIF's success in developing Northern Australia. The committee agrees with submitters that the creation and implementation of an IES is an important step in ensuring such participation. The committee particularly supports a project committing to viable, sustainable procurement targets, identifying and recognising the importance of cultural heritage protection, and reflecting local cultural protocols.

2.108 The committee notes feedback received about the lack of targets that might be within Indigenous engagement strategies and concerns about the potential lack of genuine Indigenous engagement resulting from NAIF financed projects. The committee believes that Indigenous engagement strategies should include detailed and meaningful Indigenous employment and Indigenous procurement targets. Proponents should also demonstrate that they have sincerely engaged Indigenous communities and should conduct a genuine impact assessment.

2.109 Given feedback received by the committee raising concerns about the effectiveness of Indigenous engagement strategies, NAIF should consider what compliance mechanisms are available to it to drive adherence to these strategies. In this regard, public accountability, including public disclosure of Indigenous engagement strategies, is itself a form of compliance and will help ensure that both project proponents and NAIF demonstrate their commitment to Indigenous Communities.

2.110 The committee notes that, as a document produced by the project proponent in relation to due diligence processes, a project's IES is subject to NAIF's commercial-in-confidence policy and is not published. The committee agrees with the Northern Land Council's proposal that each project proponent's IES ought to be made public.

**Recommendation 3**

**2.111 The committee recommends that subsection 17(2) of the Northern Australia Infrastructure Facility Investment Mandate Direction 2018 be amended to include a requirement that within 30 days of an Investment Decision, the Northern Australia Infrastructure Facility publish detailed Indigenous Engagement Strategies from applicants when an investment decision is taken, including detailed Indigenous procurement and employment plans demonstrating a commitment to Indigenous Communities on its website.**