

Chapter 4

Project assessment process

4.1 This chapter examines the Northern Australia Infrastructure Facility's (NAIF) project assessment and approval processes, as well as concerns raised by submitters regarding NAIF's Risk Appetite Statement (RAS), its public benefit guidelines and the level of information provided about NAIF's recent investment decisions. In so doing, the chapter also outlines the relevant recommendations made in the Expert Review conducted by Mr Tony Shepherd AO (Shepherd review).

4.2 The evidence received during the course of this inquiry relates to decision making processes which were guided by the Northern Australia Infrastructure Facility Investment Mandate Direction 2016 (2016 Investment Mandate) and NAIF governance policies that were in place in mid-late 2017. While, references in this chapter are to the 2018 Investment Mandate and NAIF's current policies, the revisions made to these documents since the inception of this inquiry do not negate submitters concerns in relation to project assessment processes.

Selecting projects for funding

4.3 NAIF must have regard to a number of different parameters when assessing and selecting projects for funding. These are drawn from the *Northern Australia Infrastructure Facility Act 2016* (NAIF Act), the Mandatory Criteria of the Investment Mandate, NAIF's Risk Management Framework, and a number of governance policies.

4.4 NAIF has developed an application and approval procedure for all projects it considers. Once a project proponent has approached NAIF with a proposal for a project, it enters what NAIF refers to as its pipeline.

4.5 At the time of writing, the NAIF website indicates that NAIF had received a total of 239 enquiries. Of these, 115 are referred to as 'active'; and 16 projects are said to be in the due diligence phase.¹

4.6 In considering potential projects, NAIF must have regard to a preference for a diversified portfolio including industry and geographic spread across the Northern Australian states and territory.² The 16 most advanced projects are spread across five sectors, with projects in the renewables and energy, transport, manufacturing, resources, tourism and social sectors. Of the 16 projects, three are located in the Northern Territory, six are in Western Australia and seven are in Queensland.³

1 Northern Australia Infrastructure Facility, *Pipeline information*, <http://naif.gov.au/application-process/pipeline-information/> (accessed 4 July 2018).

2 Northern Australia Infrastructure Facility, *Risk Management Framework*, <https://naif-gov-au.industry.slicedtech.com.au/risk-management-framework/> (accessed 20 April 2018).

3 Northern Australia Infrastructure Facility, *Pipeline information*, <http://naif.gov.au/application-process/pipeline-information/> (accessed 4 July 2018).

4.7 Once a project enters the pipeline it goes through four broad stages of assessment:

- Enquiry and Preliminary Assessment Stage;
- Strategic Assessment Stage;
- Due Diligence Stage; and
- Investment Decision and Execution Stage.⁴

4.8 More detail about each stage is available on NAIF's website, however, the online page specifies that this information is 'a guideline only and may vary depending on the type and suitability for the project'.⁵

4.9 The Shepherd review noted that in order for the NAIF to be considered successful, 'it must provide the transformative infrastructure required to stimulate economic and population growth in northern Australia'. Mr Shepherd observed that there is a role for NAIF in 'supporting the financing of infrastructure projects identified in the strategic regional hubs':

Recommendation 13—Development Hubs

Without in anyway reducing the opportunities for investment in remote locations, the Government in consultation with NAIF should explore with the States and Territories the establishment of longer term plans for the development of economic infrastructure in identified Regional Development Hubs and seek to establish priorities.⁶

4.10 The Shepherd review also considered NAIF's processes for selecting projects, and suggested that there was potential for NAIF to play an important advisory role in this process, noting that 'where project proponents with underdeveloped ideas come forward, NAIF originators can use their experience in infrastructure financing and development to advise projects about what is required to proceed'.⁷ In light of this, the Shepherd review made the following recommendation:

Recommendation 15—NAIF Focus

New potential projects should be reviewed quickly by NAIF in consultation with the relevant jurisdiction and NAIF should decide if the project is likely to proceed to the investment phase with NAIF support. If its assessment is

4 Northern Australia Infrastructure Facility, *Application and Approval Procedure*, <http://naif.gov.au/application-process/application-and-approval-procedure/> (accessed 19 April 2018).

5 Northern Australia Infrastructure Facility, *Application and Approval Procedure*, <http://naif.gov.au/application-process/application-and-approval-procedure/> (accessed 19 April 2018).

6 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 26.

7 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 28.

that this is unlikely then the proponent should be advised what is required to bring the project to investment.⁸

Projects in the tourism industry

4.11 Noting that the tourism industry is a major employer in Northern Australia, submitters proposed that investment in projects in the tourism industry would have particular benefits for Northern Australia, and suggested that such projects should be prioritised for investment by NAIF.⁹

4.12 Dr John Davison-Mowle noted the particular benefit of investing in the tourism industry because 'tourism is a major employer in many northern Australian regions, particularly Queensland, and these jobs have minimum environmental impact and provide long term employment'.¹⁰

4.13 The joint submission made by the Arid Lands Environment Centre, Cairns and Far North Environment Centre, Environment Centre NT and Environs Kimberley also expressed this view explaining that significant benefits could be achieved by investing in smaller projects across a range of industries including tourism, as it is an industry that supports growth and fits with the natural assets and values of the north.¹¹

4.14 The Australia Institute echoed this view, recommending that NAIF and the government give much greater priority to overcoming barriers to tourism industry engagement with NAIF.¹²

Risk Appetite Statement

4.15 The due diligence stage is an important element of the project assessment process. This stage examines the different types of risks that could be involved in a proposed project, including its public benefit, financial risk, technical risks and others.¹³ Section 12 of the Investment Mandate¹⁴ requires the NAIF to develop a Risk Appetite Statement (RAS) to guide its Investment Decisions. The RAS is developed in consultation with the responsible Minister and the relevant Northern Australia

8 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 28.

9 See for example: Mrs Nancy Pallin, Submission 12, p. 1; Dr Galina Williams, *Submission 23*, p. 2; Australian Conservation Foundation, *Submission 26*, p. 4; Lock the Gate Alliance, *Submission 34*, p. 1.

10 Dr John Davison-Mowle, *Submission 22*, p. 3.

11 Arid Lands Environment Centre (ALEC), Cairns and Far North Environment Centre (CAFNEC), Environment Centre NT (ECNT) and Environs Kimberley (EK), *Submission 29*, p. 2.

12 The Australia Institute, *Submission 47*, p. 25.

13 Northern Australia Infrastructure Facility, *Application and Approval Procedure*, <http://naif.gov.au/application-process/application-and-approval-procedure/> (accessed 27 June 2018).

14 References in this chapter are to the 2018 Investment Mandate, unless otherwise specified.

jurisdictions and is a core component of NAIF's Risk Management Framework. Section 12 also sets out a number of other requirements for the RAS:

- Subsection 12(3) prescribes that 'in order to drive economic development in Northern Australia, the Risk Appetite Statement must have regard to a preference for a diversified portfolio, including industry and geographic spread across the States and Territory that comprise Northern Australia'.¹⁵
- Subsection 12(4) states that:

The Risk Appetite Statement may have a high risk tolerance in relation to factors that are unique to investing in Northern Australia Economic Infrastructure as defined in the Act, including but not limited to, Northern Australia's:

 - (a) distance;
 - (b) remoteness; and
 - (c) climate.¹⁶
- Subsection 12(5) of the Investment Mandate requires the RAS to be reviewed annually to address emerging risks, changes to existing risks and changes to Government policy¹⁷—the NAIF Risk Management Framework provides for this and in line with the ANAO Guide, NAIF has advised that the board will update the RAS more regularly to take account of emerging risks and innovation strategies.¹⁸

4.16 NAIF does not publish its RAS; however, NAIF's website does include a page which provides information on NAIF's Risk Management Framework. This page outlines the main objectives of NAIF's RAS:

The RAS provides personnel at all levels of the business with a clear understanding of the acceptable level of risk within which they must execute their business plans in pursuit of the Board's strategic objectives. It articulates the amount and type of risk that NAIF is willing to seek or retain in pursuit of its objectives (i.e. risk appetite) as well as the amount of risk that it has a readiness to bear at the individual risk level (i.e. risk tolerance).¹⁹

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

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

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

18 Northern Australia Infrastructure Facility, *Submission 43*, p. 24

19 Northern Australia Infrastructure Facility, *Risk Management Framework*, <https://naif-gov-au.industry.slicedtech.com.au/risk-management-framework/> (accessed 20 April 2018).

4.17 NAIF's website also explains that the RAS may accept higher levels of risk in the initial years of NAIF's operation.²⁰ Over time, the board may approve a strategy for the management of risk concentrations, including the imposition of limits.²¹

4.18 NAIF describes the RAS as an internal, strategic, tactical and operational document that the board uses to guide its Investment Decisions, operations and governance.²² In its submission to the inquiry, NAIF explained that the reason for maintaining confidentiality of the RAS is because it describes in detail the manner in which NAIF's risk appetite and tolerances (qualitative and quantitative) are established and controlled.²³

4.19 NAIF also explained that this non-disclosure of the RAS is consistent with a number of other corporate entities in the private sector including the Clean Energy Finance Corporation (CEFC), the Export Finance and Insurance Corporation (Efic), and the major banks in Australia.²⁴

Clean Energy Finance Corporation

4.20 The CEFC uses similar processes to the NAIF for selecting projects to approve for funding. On this matter, Mr Simon Every, Head of Government and Stakeholder Relations at the CEFC explained to the committee:

Our act specifies that there is a kind of criteria when we go down into making an investment decision. It starts with some specifics in the act. Then our ministers give us an investment mandate direction which makes certain provisions as to how we're to treat investment applications. Then the act says that we must develop policies and procedures and cause them to be published, which is done. And of course we publish them in other aspects such as our annual report when we're discussing how we make our investment.²⁵

4.21 Like NAIF, the CEFC does not publish a RAS; however, it does publish its Risk Investment Strategy (RIS). In answers to questions on notice, the CEFC noted that there are two reasons why the CEFC publishes its investment strategy. Firstly, it is a legal requirement of its enabling legislation. Section 68(1)(a) of the *Clean Energy Finance Corporation Act 2012* requires that the Board make and publish an investment strategy as part of its investment policies. Secondly, CEFC noted that they publish their RIS because:

20 Northern Australia Infrastructure Facility, *Risk Management Framework*, <https://naif-gov-au.industry.slicedtech.com.au/risk-management-framework/> (accessed 20 April 2018).

21 Northern Australia Infrastructure Facility, *Risk Management Framework*, <https://naif-gov-au.industry.slicedtech.com.au/risk-management-framework/> (accessed 20 April 2018).

22 Northern Australia Infrastructure Facility, *Submission 43*, p. 23.

23 Northern Australia Infrastructure Facility, *Submission 43*, p. 23.

24 Northern Australia Infrastructure Facility, *Submission 43—Attachment 1*, p. 6.

25 Mr Simon Every, Head of Government and Stakeholder Relations, Clean Energy Finance Corporation, *Committee Hansard*, 1 February 2018, p. 18.

...even if it was not legally required, it helpfully serves as a practical piece of communication to potential counterparties as to what the CEFC is about and the types of investments it is seeking (and consequently, what it is not).²⁶

Publication of the Risk Appetite Statement

4.22 Submitters were not satisfied with the limited information on NAIF's website relating to the organisation's risk tolerance, and commented that it was impossible to reflect on the adequacy of a document which they could not access. Submitters suggested the RAS should be made public as this would increase transparency and give the public confidence in the decisions NAIF was making.²⁷

4.23 A number of submitters including Doctors for the Environment Australia, the Australian Conservation Foundation, and the Australian Marine Conservation Society pointed out that the RAS had not been made public despite the fact that an Order of the Senate had requested it.²⁸

4.24 Dr Noel Preece, an experienced risk assessor, commented that the RAS should be publicly released to allow the public to consider the processes that NAIF implements to evaluate risk. Dr Preece further argued that having worked as a risk assessor for major projects in Northern Australia, he understood the process, and did not agree with NAIF's decision to keep the RAS as a confidential document.²⁹

4.25 Dr Preece explained to the committee that he did not believe that publishing NAIF's RAS would 'jeopardise projects':

We're talking about a risk appetite statement. It's about what risks and what level of risks NAIF is prepared to take. That doesn't need to get down to the level of detail that might be in a project which is commercially confidential. It doesn't need to jeopardise any of those things, but it does need to present to the public, the consumer, the funder, what sort of risks this organisation is prepared to take. Are they just prepared to throw that money away, or are they recognising some of those risks, so that people, particularly people in northern Australia can say, 'They have considered that' or 'They haven't considered that—they need to address that sort of issue.' That is just absent from the information I was able to obtain.³⁰

4.26 Dr Preece suggested that instead of publishing the entire document, an alternative for NAIF could be to publish some detail of its RAS:

26 Clean Energy Finance Corporation, answer to question on notice, 1 February 2018 (received 26 February 2018).

27 See for example: Concerned Economists Group, *Submission 48*, p. 7; Institute for Energy Economics and Financial Analysis, *Submission 85*, p. 4; The Australia Institute, *Submission 47*, p. 28.

28 Doctors for the Environment Australia, *Submission 25*, p. 7; Australian Conservation Foundation, *Submission 26*, p. 7; Australian Marine Conservation Society, *Submission 55*, p. 4.

29 Dr Noel Preece, *Submission 24*, p. 2.

30 Dr Noel Preece, *Committee Hansard*, 1 February 2018, p. 8.

Even in a general statement for NAIF and its principles of how you're going about business—and it is business—I would have assumed that they would have presented that risk scenario, if you like, at least in some detail. Maybe not down to the fine detail; each project will have a different risk profile; but as a body that is allocating a very large amount of money, they should at least have a tabulation, a summary or schema of what risks they think are most important.³¹

4.27 The Australia Institute proposed that in the event that the RAS could not be publicly released, that the document should be instead subject to external professional audit as a priority.³²

Climate related risk

4.28 Ms Bess Murphy, Community Engagement Coordinator from the Cairns and Far North Environment Centre, pointed out that NAIF should consider publishing its RAS because the public should have access to this information in order to determine whether NAIF is 'taking climate risk properly into account in its assessment of projects':

Climate change is obviously a huge environmental issue but it also has a huge bearing on a project's success. What we are asking for is confidence in the decision making processes. Climate change should be extensively featured in the risk appetite statement. We believe that it should be made public or at least a clear summary of what the risk appetite statement involves.³³

4.29 Dr Preece also considered climate change a major risk to projects, and suggested that this factor was not being appropriately assessed:

NAIF relies heavily on the Developing Northern Australia white paper, which does not address climate change except in one passing mention of possible threats to biodiversity (certainly a threat) but ignores the overwhelming evidence that climate change impacts will be severe in the north.³⁴

4.30 On the issue of considering climate related risk in assessing whether to provide financial assistance to a particular project, Ms Shar Molloy from the Environment Centre NT noted that Westpac had published their climate change position statement and 2020 action plan:

They also clearly acknowledge that climate related risk is also a financial risk. So risk associated with climate change may impact on companies' financial performance and the stability of the financial system. Westpac has long stated that climate related risk is financial risk. This is why we have

31 Dr Noel Preece, *Committee Hansard*, 1 February 2018, p. 8.

32 The Australia Institute, *Submission 47*, p. 28.

33 Ms Bess Murphy, Community Engagement Coordinator, Cairns and Far North Environment Centre, *Committee Hansard*, 2 February 2018, p. 29.

34 Dr Noel Preece, *Submission 24*, p. 2.

been working with their customers and investors to disclose the information on their approach to this issue. I would suggest that large funding banks like Westpac are certainly leading the way in the importance of being able to identify climate risk and then how that impacts the financial risk.³⁵

4.31 The Climate Action Network Pacific encouraged the committee to 'consider the views of Pacific countries on climate change and work to ensure that the NAIF funds are directed towards projects that reduce rather than exacerbate the risks [they] face'.³⁶

Public Benefit

4.32 As noted in Chapter 2, the NAIF board can only approve projects for funding if they fulfil all of the mandatory criteria set out in Schedule 1 of the Investment Mandate. Mandatory Criterion 2 requires that a proposed project must be of public benefit. The Investment Mandate specifies that:

The Board must be satisfied that the Project will produce benefits to the broader economy and community beyond those able to be captured by Project Proponent.

In assessing public benefit, the Board may, without limitation, consider whether the Project will have the capacity to serve multiple users (either immediately or during the expected life of the Project).³⁷

4.33 Further, subsection 9(1) of the Investment Mandate also requires that:

In determining any concession to be granted in an Investment Decision, the Board must have regard to:

(a) the extent and mix of all concessions necessary for the Investment Proposal to proceed; and

(b) the extent of the project's public benefit.³⁸

4.34 In determining what constitutes the public benefit of a proposed project, NAIF has developed a *Public Benefit Guideline* (PB Guideline). The PB Guideline states:

Public benefits are benefits of the Project not captured by the Project Proponent. They are benefits of the Project valued by other business users, governments, individuals and the community.³⁹

4.35 The PB Guideline notes that examples of these types of benefits include 'improvements in regional productivity, regional connectivity or better social or economic outcomes for individuals'.⁴⁰

35 Ms Shar Molloy, Director, Environment Centre NT, *Committee Hansard*, 2 February 2018, p. 30.

36 Climate Action Network Pacific, *Submission 104*, p. 1.

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

38 *Northern Australia Infrastructure Facility Investment Mandate Direction 2018*, ss. 9(1).

39 Northern Australia Infrastructure Facility, *Public Benefit Guideline*, June 2017, p. 2.

4.36 NAIF's policy also establishes that 'significant public benefits are more likely to eventuate when a Project serves, or has potential to serve multiple end users'. The requirement that any project must have a public benefit is consistent with NAIF's objective of supporting infrastructure that promotes economic growth and stimulates population growth in northern Australia.⁴¹

4.37 Submitters agreed that any project that receives NAIF funding should be subject to a public benefit test. However, submitters were frustrated that, along with the RAS, the public benefit test was not available to the public and raised concerns about how the public benefit w a project would be assessed.

4.38 The Environmental Defenders' Office (EDO) considered that the PB Guideline 'do[es] not appear to assist Board members to accurately recognise the inherent difficulties...when assessing the public benefit of a project'. Specifically, EDO commented that the criteria set out in the PB Guideline were not sufficient as a public benefit test. Further, EDO pointed out:

There is no clarification in the Investment Mandate on what is meant by public benefit, and no mention of public benefit in the Northern Australia Infrastructure Facility Act 2016. Thus, the NAIF Board had broad discretion in determining the public benefit test before publishing its Public Benefit Guideline (the Guideline) in June 2017. The Guideline only stipulates that the Board must be provided with a Public Benefit Analysis (PBA) from the Proponent. No indication is given as to how the PBA is then assessed and relied upon in the decision-making process.⁴²

4.39 Professor Samantha Hepburn, Director of the Centre for Energy and Natural Resources Law, Deakin Law School, agreed that the mandatory eligibility criteria did not define public benefit or 'explain how public benefit must be assessed in the context of the management and distribution of significant amounts of public resources by a Commonwealth entity'. Professor Hepburn explained that:

Public benefit should not be presumptively equated with enhanced economic infrastructure, particularly within a public resource framework such as that which exists in Australia. The mandatory criteria set out in the existing investment mandate needs clearly defined to ensure that considerations relevant to public benefit are taken into account by the NAIF board.⁴³

4.40 Ms Claire Gronow, an environmental scientist specialising in environmental assessment and management, considered that the criteria for determining the suitability and acceptability of proposals for NAIF funding were 'woefully inadequate

40 Northern Australia Infrastructure Facility, *Public Benefit Guideline*, June 2017, p. 2.

41 Northern Australia Infrastructure Facility, *Public Benefit Guideline*, June 2017, p. 2.

42 Environmental Defenders' Office, *Submission 111*, p. 7.

43 Professor Samantha Hepburn, *Submission 108*, p. 11.

and simplistic', and commented that 'if these are the only criteria applied, it is likely that proposals funded by NAIF will cause more harm than good'.⁴⁴

4.41 Doctors for the Environment Australia proposed that the definition of public benefit should be 'broadened to include short and long-term effects on health, social and community functioning and the environment'.⁴⁵

4.42 The Australia Institute suggested that NAIF should clarify its public benefits test. Specifically, that it should:

- include a 'national interest' test with scope of assessment covering all of Australia;
- clarify whether and how it is prioritising job creation;
- include impacts on other actors in relevant markets, not just other infrastructure; and
- include guidance on acceptable models and clarify parameters.⁴⁶

4.43 RDA took an opposing view and stated it believed that the guidance provided in the Investment Mandate, and by NAIF in the PB Guideline, is sufficient.⁴⁷

Cost benefit analysis

4.44 NAIF's PB Guideline sets out that 'for Projects where the proposed NAIF Investment is \$50 million or greater, the Board requires a Cost Benefit Analysis (CBA) of the Project's Public Benefit. Such analysis involves valuing the benefits and costs of a Project to estimate the Public Benefit'.

4.45 The PB Guideline also stipulates that 'for projects where NAIF's proposed investment is below \$50 million, a CBA may not be required'. However, the public benefit must still be clearly demonstrated to the satisfaction of the board. For projects requiring significant financing concessions, the project proponents will be encouraged to provide a CBA.⁴⁸

4.46 The PB Guideline specifies that it is preferable for benefits and costs to be quantified in present value terms, while acknowledging that this is not always possible. In these circumstances, the PB Guideline states that the CBA can be supported by 'qualitative assessments on how benefits and costs of a Project will be realised'. The PB Guideline stipulates that 'failure to quantify the Public Benefit of a Project may influence the financing concessions available to the Project'.⁴⁹

44 Ms Claire Gronow, *Submission 3*, p. 1.

45 Doctors for the Environment Australia, *Submission 25*, p. 3.

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

47 Regional Development Australia, Far North Queensland and Torres Strait, *Submission 109*, p. 3.

48 Northern Australia Infrastructure Facility, *Public Benefit Guideline*, June 2017, p. 3.

49 Northern Australia Infrastructure Facility, *Public Benefit Guideline*, June 2017, p. 3.

4.47 The PB Guideline also sets out that:

- The CBA must examine if a project has a public benefit to the economy and community. It must involve aggregating the impacts on members of the community, excluding the benefits and costs of the project captured by the project proponent.
- Where possible, the CBA must consider a range of possible scenarios in addition to the base case. Sensitivity analysis on the assumptions that underpin the CBA outcome, for example discount rates applied to estimate benefits and costs in present value terms, must also be provided.⁵⁰

4.48 Finally, the PB Guideline requires that the following three types of impacts than generate benefits and costs should be included in the CBA:

- Impacts on the economy and productivity—Examples include the value of capacity and operating cost savings that flow from the project to business and the value of improvements in reliability of infrastructure services.
- Impacts on individuals—Examples include accessibility and connectivity impacts, or improved employment, health, safety and security outcomes.
- Impacts on the community—Examples include positive and negative environmental and social impacts during the construction and operation of the project.⁵¹

4.49 Despite the availability of this information about public benefit and cost benefit analyses, submitters were not satisfied and expressed that the information provided was too vague. Specifically, Ethinvest suggested that NAIF define the terms of the cost-benefit analyses it applies, and include specific commitments in terms of environmental sustainability and climate change.⁵²

4.50 The Australia Institute agreed and proposed that all cost-benefit analyses should be made public to permit scrutiny. Further, The Australia Institute suggested that if CBAs could not be published, summaries of the CBAs should be released, and the full analysis should be subject to thorough critical external expert review.⁵³

4.51 The Concerned Economists Group also suggested that 'when NAIF is considering large and complex loan proposals, including in the case of Adani, it should be required to contract out the relevant cost/benefit analysis to independent experts with the expertise to conduct them, such as the Productivity Commission'.⁵⁴

50 Northern Australia Infrastructure Facility, *Public Benefit Guideline*, June 2017, p. 3.

51 Northern Australia Infrastructure Facility, *Public Benefit Guideline*, June 2017, p. 3.

52 Ethinvest, *Submission 38*, p. 2.

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

54 Concerned Economists Group, *Submission 48*, p. 6.

Environmental and social considerations

4.52 Submitters were particularly concerned about whether a project's impact on the environment would be taken into account as part of the public benefit assessment and the CBA.

4.53 Subsection 17(1) of NAIF's Investment Mandate stipulates that:

The Facility must have regard to Australian best practice government governance principles, and Australian best practice corporate governance for Commercial Financiers, when performing its functions, including developing and annually reviewing policies with regard to:

- (a) environmental issues; and
- (b) social issues;
- (c) governance issues.

4.54 To assist in its assessment of projects from an environmental and social perspective, NAIF developed an *Environmental and Social Review of Transaction Policy* (ESRT Policy). This document reminds the reader that NAIF is a financier not a regulatory authority.⁵⁵ The ESRT Policy explains:

...the NAIF understands that the regulation and management of environmental and social matters is the responsibility of the Commonwealth, State and Territory (Australian Government) departments and agencies. Some economic infrastructure projects (Project) have the potential to result in significant adverse environmental and social impacts. Where relevant, such impacts will be evaluated when the NAIF Board makes an Investment Decision. Understanding a Project's environmental and social impacts is also commercially prudent for NAIF as significant environmental and social issues can impact the repayment of a financing facility.⁵⁶

4.55 The ESRT Policy notes that project proponents are obliged to 'obtain and maintain all relevant State or Territory and Federal Government regulatory, environmental and Native Title approvals' and provide proof that it has done so.⁵⁷

4.56 In considering whether a project has received all of the necessary approvals, the ESRT Policy states:

...the NAIF board considers its regulatory, environmental, social and Native Title requirements are met when expert regulatory, environmental,

55 Northern Australia Infrastructure Facility, *Environmental and Social Review of Transaction Policy*, June 2017, p. 2.

56 Northern Australia Infrastructure Facility, *Environmental and Social Review of Transaction Policy*, June 2017, p. 2.

57 Northern Australia Infrastructure Facility, *Environmental and Social Review of Transaction Policy*, June 2017, p. 2.

social and Native Title due diligence reviews on which NAIF has reliance confirms (or otherwise) that all relevant approvals have been obtained.⁵⁸

4.57 The ESRT Policy also notes that if required, the NAIF board may make an Investment Decision prior to a project receiving all such approvals, however, stipulates that funds will not be released to the project until the review of approvals has been achieved to the satisfaction of the board.⁵⁹

4.58 Ms Laurie Walker, NAIF CEO, attempted to reassure the public that the NAIF board did take environmental considerations into account and conceded that NAIF had a role to play in communicating this:

I think we could make some of this clearer to help with some of the feedback that the market has been giving. Broadly, we do need environmental approvals and native title approvals for all of our projects before we lend, but we also do an assessment as a lender and we don't replicate the role of the regulator. So those approvals need to be in place, but we then look at, on a project-by-project basis, factors such as the physical impacts of climate change.⁶⁰

4.59 Despite the assurances set out in NAIF's ESRT Policy and those given by NAIF's CEO, some submitters were not satisfied that the environmental impact of a proposed project was being sufficiently considered.⁶¹

4.60 Ms Gronow suggested that NAIF's reliance on other legislation for a project's environmental approvals was insufficient:

Having practiced in environmental impact assessment in Australia since 1991, I am not convinced that merely holding an environmental approval under Federal and/or State legislation is a reliable indicator that a proposal has low impacts.⁶²

4.61 Dr John Davison-Mowle echoed this view, commenting that reliance on Commonwealth, state and territory regulations is inadequate due to several factors:

- (a) there are provisions in some of them for short term economic considerations to override environmental concerns;
- (b) there is a very low incidence of refusal of permissions, especially in Queensland; and

58 Northern Australia Infrastructure Facility, *Environmental and Social Review of Transaction Policy*, June 2017, p. 2.

59 Northern Australia Infrastructure Facility, *Environmental and Social Review of Transaction Policy*, June 2017, p. 2.

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

61 See for example: Ms Grusha Leeman, *Submission 13*, p. 1; Dr Galina Williams, *Submission 23*, p. 1; Doctors for the Environment Australia, *Submission 25*, p. 3; Lock the Gate Alliance, *Submission 34*, p. 1; Australian Ethical Investment, *Submission 36*, p. 2.

62 Ms Claire Gronow, *Submission 3*, p. 1.

(c) there is a perception, which may indeed be true, that there are inadequate provisions for enforcing compliance in environmental matters, particularly in regard in rehabilitation of mining sites.⁶³

4.62 Ms Murphy of the Cairns and Far North Environment Centre proposed that:

...the NAIF Act and the investment mandate need to include an explicit guideline to protect the environment of northern Australia, including the climate impact of projects. The investment mandate as it stands doesn't follow the triple bottom line principle and we think that explicit consideration of climate change is really essential, but even more pertinent in northern Australia as our region is on the frontline of climate change.⁶⁴

4.63 Doctors for the Environment Australia proposed that the definition of a project's public benefit be expanded to include 'short and long-term effects on health, social and community functioning and the environment'.⁶⁵ The Australian Conservation Foundation expressed a similar view, and recommended that the public benefit test should 'express the desire of improving the long-term wellbeing of Northern Australians, while protecting and enhancing existing environmental and cultural sites'.⁶⁶

Suitable person test

4.64 Submitters also suggested that NAIF consider, as part of its assessments, whether a project proponent is suitable to receive NAIF funding.⁶⁷ The catalyst for this consideration was the possibility of NAIF providing funding to the Adani Group for the North Galilee Basin Rail Project.

4.65 Transparency International Australia suggested that NAIF could introduce applicant eligibility criteria. This would involve 'conduct[ing] due diligence checks into the character and integrity of applicants' as well as 'investigat[ing] the beneficial ownership of companies applying for financial assistance'.⁶⁸

4.66 In the same vein, Farmers for Climate Action, recommended including a 'Suitable Person' test to NAIF's project assessments, including a mandatory consultation with the Australian Securities and Investments Commission and the Australian Crime Commission.⁶⁹

63 Dr John Davison-Mowle, *Submission 22*, pp. 2–3.

64 Ms Bess Murphy, Community Engagement Coordinator, Cairns and Far North Environment Centre, *Committee Hansard*, 2 February 2018, p. 28.

65 Doctors for the Environment Australia, *Submission 25*, p. 3.

66 Australian Conservation Foundation, *Submission 26*, p. 3.

67 See for example: Union Aid Abroad APHEDA, *Submission 35*, p. 2; Australian Conservation Foundation, *Submission 26*, p. 3.

68 Transparency International Australia, *Submission 44*, p. 2.

69 Farmers for Climate Action, *Submission 45*, p. 4.

4.67 The Australia Institute also believed that NAIF should be required to consider the history of the applicant with regards to social, environmental and governance risks prior to any Investment Decision.⁷⁰

Shepherd review

4.68 The Shepherd review considered NAIF's project assessment processes and in particular, looked at how it considered public benefit:

Given that NAIF is public finance, it is appropriate that NAIF seek to maximize the public benefits associated with the concessional aspects of their financing arrangements. In particular, there is an opportunity for the Investment Mandate to clarify that, where competing projects are in place or where there is oversubscription of NAIF's allocation, a preference exists for local investment from which benefits are likely to be dispersed to the Australian community.⁷¹

4.69 Mr Shepherd explained that this is 'consistent with the approach of US TIFIA⁷² scheme', and proposed that subject to Australia's International Trade Obligations:

Recommendation 9—Local Investment

The NAIF Mandate should be clarified to make it clear that all else being equal preference will be given to the project, which has the highest relative level of domestic equity.⁷³

4.70 The Shepherd review also considered NAIF's pipeline and its processes for selecting which projects to progress. Mr Shepherd noted that:

While high value projects deliver the best payoff in terms of input costs, the impact of driving smaller projects which will deliver localised public benefit also need to be considered.⁷⁴

Investment Decisions

4.71 Following its assessment of a project, the proponent will submit a formal Investment Proposal which contains all of the necessary information, including due diligence information, for the NAIF board to make an Investment Decision.⁷⁵

70 The Australia Institute, *Submission 47*, p. 6, p. 34.

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

72 *Transportation Infrastructure Finance and Innovation Act*.

73 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 21.

74 Mr Anthony F Shepherd AO, *Northern Australia Infrastructure Facility (NAIF) Expert Review Report*, 2018, p. 28.

75 The 2018 Investment Mandate defines an Investment Decision as a decision by the Board to offer, or not to offer, a Financing Mechanism.

4.72 When an Investment Decision is made, subsection 17 (2) of NAIF's Investment Mandate stipulates that:

(2) Within 30 business days of an Investment Decision, the Facility must publish information regarding the Investment Decision on its website, subject to commercial confidentiality, including:

- (a) the name of the Project Proponent; and
- (b) the goods/services involved; and
- (c) the location; and
- (d) the type of Financing Mechanism; and
- (e) the amount of the Financing Mechanism.

4.73 In addition to the above requirement, section 42 of the NAIF Act specifies that:

The annual report prepared by the Board and given to the Minister under section 46 of the Public Governance, Performance and Accountability Act 2013 for a period must include the following:

- (a) the particulars of any changes to the Investment Mandate during the period and their impact on the operations of the Facility;
- (b) a summary of the proposal notices given by the Facility to the Minister during the period;
- (c) a summary of any rejection notices given by the Minister during the period and the Minister's reasons for giving the notices;
- (d) for financial assistance provided by the Facility during the period, a summary of:
 - (i) the amounts of financial assistance and kinds of Northern Australia economic infrastructure concerned; and
 - (ii) the kinds of loan contracts used, and their important features;
 - (iii) the risks and returns to the Commonwealth;
- (e) a summary of any adjustments or concessions made by the Facility during the period in relation to Northern Australia economic infrastructure projects that have not progressed as planned.⁷⁶

4.74 Since its establishment, NAIF has produced one annual report, for the 2016–17 financial year. No Investment Decisions were made during that period.

4.75 Since its establishment, NAIF has made three Investment Decisions and given conditional approval to another project. The details of these decisions are set out below.

⁷⁶ *Northern Australia Infrastructure Facility Act 2016*, s. 42.

Projects

Onslow Marine Support Base

4.76 On 29 September 2017, the NAIF Board made its first Investment Decision—the offer of a loan of \$16.8 million to the Onslow Marine Support Base in Western Australia for the development of a marine supply facility including the expansion of the existing wharf and harbour.

4.77 In accordance with subsection 17(2) of the Investment Mandate, following the board's Investment Decision the following information about the project was published on NAIF's website:

Formal NAIF publication of Investment Decision relating to Onslow Marine Support Base, Western Australia

On 29 September 2017 the NAIF Board made an Investment Decision to offer a Financing Mechanism. This project to which the Investment Decision relates is the **Onslow Marine Support Base, Western Australia**. It will provide supply and support services for onshore and offshore businesses such as logistics, fuel suppliers, waste management, and construction and maintenance companies in the Carnarvon Basin.

For the purpose of Section 17(2) of the Investment Mandate details of that decision are:

Name of project proponent: Onslow Marine Support Base Pty Ltd

Goods/services involved: Development of a marine supply facility including wharf and harbour expansion

Location: Beadon Creek Onslow, Western Australia

Type of Financing Mechanism: loan

Amount of Financing Mechanism: up to \$16.8m

Financial assistance to the project is subject to a number of conditions.

The NAIF Board has provided a proposal notice to the responsible Minister for the purpose of Section 11(2) of the NAIF Act in relation to the Onslow Marine Support Base Investment Decision. NAIF has not provided financial assistance to the project at this stage.

The formal agreement of the Western Australian Government to enter into the project financial assistance loan and the relevant finance documents has not yet been obtained.

Figure 1: Northern Australia Infrastructure Facility website, 'Formal NAIF publication of Investment Decision' (accessed November 2017).

4.78 While the details provided fulfil the NAIF's disclosure obligations regarding Investment Decisions, the information did not include details such as, when the project might receive funding, what the terms of the funding would be or why the project was selected to receive funding.

4.79 In early June 2018 the Onslow Marine Support Base was financed. NAIF's website updated the above text to include:

All conditions precedents were met on 7 June 2018 with initial drawdown of funds being made 7 days later on 14 June 2018.⁷⁷

77 Northern Australia Infrastructure Facility, *NAIF Investments*, <http://naif.gov.au/application-process/naif-investments/> (accessed 25 June 2018).

Humpty Doo Barramundi Farm

4.80 On 3 May 2018, NAIF made its second Investment Decision—the offer of a loan to the Northern Territory's Humpty Doo Barramundi Pty Ltd. The relevant information required by section 17(2) of the Investment Mandate is on NAIF's website.⁷⁸

4.81 The loan will finance the first of a three stage infrastructure investment, including the development of a solar farm, and a medium fish nursery as well as providing processing equipment and adult fish feeding systems.⁷⁹

4.82 The loan amount is \$7.18 million, and NAIF has stated that this may lead to further investment in stages two and three of the development, leading to a commitment to a potential overall \$30 million program. The loan is for 100 per cent of the debt for the project infrastructure components, which was not possible under the original 2016 Investment Mandate. As noted in Chapter 2 of this report, the debt cap was previously set at 50 per cent.

4.83 Ms Laurie Walker, NAIF CEO, stated:

It demonstrates the additional flexibility that the Mandate changes have given us, and how they've helped accelerate NAIF's ability to make Investment Decisions.⁸⁰

4.84 The financing of the loan will be subject to the necessary environmental and other approvals.

James Cook University

4.85 On 3 July 2018, NAIF announced its third Investment Decision—the offer of a loan to James Cook University (JCU) in Queensland. The \$96 million will fund the development of the Technology Innovation Centre (TIC) on JCU's Townsville Campus. This social infrastructure project is part of a larger Enterprise Bundle which has a total project value of \$174 million.⁸¹

4.86 At the time of writing NAIF has released a media statement but no formal notification of the Investment Decision as required by subsection 17(2) of the Investment Mandate.

78 Northern Australia Infrastructure Facility, *NAIF Investments*, <http://naif.gov.au/application-process/naif-investments/> (accessed 26 June 2018).

79 Northern Australia Infrastructure Facility, *NAIF Investments*, <http://naif.gov.au/application-process/naif-investments/> (accessed 15 June 2018).

80 Northern Australia Infrastructure Facility, Media Release, 'First NT project will take more Barramundi to the world', <https://naif-gov-au.industry.slicedtech.com.au/wp-content/uploads/2018/05/20180516-First-NT-project-will-take-more-Barramundi-to-the-world.pdf> (accessed 16 May 2018).

81 Northern Australia Infrastructure Facility, Media Release, 'World class education more attainable with NAIF loan', <https://naif-gov-au.industry.slicedtech.com.au/wp-content/uploads/2018/07/20180703-World-class-education-more-attainable-with-NAIF-loan.pdf> (accessed 4 July 2018).

Genex Power–Kidston Stage 2 project

4.87 On 20 June 2018, NAIF and Genex Power made a joint media release to announce that the NAIF board had 'expressed its support for the development of the financing structure for Genex's Kidston Stage 2 project through the provision of an indicative term sheet for a long-term concessional NAIF debt facility for up to \$516 million'.⁸²

4.88 A year earlier, NAIF released some limited information in relation to the Genex Kidston project via a joint media release.⁸³ In this instance Genex Power had agreed that NAIF could make a statement about its application for its 'Stage 2 large-scale solar and hydro pumped storage projects at Kidston in North Queensland'.⁸⁴

Adani railway line to the Carmichael coal mine

4.89 In the lead up to the Queensland election in November 2017, the Queensland Premier Anastacia Palaszczuk stated that if the Labor Government was re-elected, it would not support any NAIF Investment Decision to provide funding to the Adani Group for the North Galilee Basin Rail Project.

4.90 Following the re-election of the Labor Government, the Queensland Treasurer, the Hon. Jackie Trad wrote to Minister Canavan to confirm this position. The letter specifically stated:

In accordance with Section 13(4) of the Northern Australia Infrastructure Facility Investment Mandate Direction 2016 (the Mandate), the State of Queensland provides formal notification to the Commonwealth that financial assistance should not be provided to Adani for the North Galilee Basin Rail Project. Under the Mandate, an application will not progress following such notification.⁸⁵

82 Northern Australia Infrastructure Facility, Media Release, 'Genex receives indicative term sheet from the Northern Australia Infrastructure Facility for up to \$516 million of concessional debt funding for the Kidston Stage 2 project', <https://naif-gov-au.industry.slicedtech.com.au/wp-content/uploads/2018/06/Genex-NAIF-Announcement-20-June-2018.pdf> (accessed 25 June 2018).

83 Northern Australia Infrastructure Facility, Media Release, 'Genex welcomes approval from the Northern Australia Infrastructure Facility to proceed to full due diligence phase', <https://naif-gov-au.industry.slicedtech.com.au/wp-content/uploads/2017/07/NAIF-Genex-release-12-July-2017.pdf> (accessed 25 June 2018).

84 Northern Australia Infrastructure Facility, Media Release, 'Genex welcomes approval from the Northern Australia Infrastructure Facility to proceed to full due diligence phase', <https://naif-gov-au.industry.slicedtech.com.au/wp-content/uploads/2017/07/NAIF-Genex-release-12-July-2017.pdf> (accessed 25 June 2018).

85 Letter from the Deputy Premier of Queensland, the Hon. Jackie Trad MP to Senator the Hon. Matthew Canavan, Minister for Resources and Northern Australia, https://naif-gov-au.industry.slicedtech.com.au/wp-content/uploads/2017/12/12-12-2017_Letter.pdf (accessed 4 July 2018).

4.91 Although no formal Investment Decision was made in relation to the Adani North Galilee Railway Line project, NAIF updated its website to include a copy of the letter received and a short statement below the letter which reads:

As a consequence, in accordance with section 13(4) of the NAIF Investment Mandate, NAIF will not be making an Investment Decision to provide financial assistance to that Project.⁸⁶

Statement of reasons

4.92 Submitters raised concerns about the level of information provided by NAIF about Investment Decisions; and proposed that, further to the requirements of subsection 17(2) of the Investment Mandate, NAIF should be required to publish a statement of reasons once it has made an Investment Decision, detailing how a project meets the mandatory criteria in the Investment Mandate.⁸⁷

4.93 The Environment Council of Central Queensland suggested:

The NAIF should also commit to publishing as much information as possible about an investment decision as soon as it is made (e.g. a statement of reasons explaining the decision).⁸⁸

4.94 The Australian Conservation Foundation also recommended that NAIF 'publish a statement of reasons as to how specific investment decisions comply with the mandatory [criteria]...'⁸⁹

4.95 In answers to questions on notice, the Department of Industry, Innovation and Science stated that the NAIF board's Investment Decision was statement enough that the project satisfied the criteria:

The NAIF Board is an independent Board, which makes investment decisions in accordance with its Investment Mandate. The Investment Mandate outlines a number of mandatory criteria which must be met for financial assistance to be approved. Therefore in making a decision to finance a project, the NAIF confirms that the project meets the criteria, and the NAIF has fulfilled its obligations under the Investment Mandate.⁹⁰

4.96 NAIF has expressed some inclination to providing more information in relation to one Investment Decision, the Onslow project. In answers to questions on notice, NAIF commented:

86 Northern Australia Infrastructure Facility, *Written Notification from Northern jurisdictions*, <http://naif.gov.au/written-notification-from-northern-jurisdictions/> (accessed 4 July 2018).

87 See for example: Sunshine Coast Environment Council, *Submission 40*, p. 3; Environment Council of Central Queensland, *Submission 60*, p. 3; Australian Conservation Foundation, *Submission 26*, p. 3.

88 Environment Council of Central Queensland, *Submission 60*, p. 3.

89 Australian Conservation Foundation, *Submission 26*, p. 3.

90 Department of Industry, Innovation and Science, answer to question on notice, 11 August 2017 (received 5 September 2018).

In consultation with the proponent, NAIF expects to publish a case study on the Onslow Project after the project has achieved financial close which is expected to be in line with the level of detail for such studies published by CEFC another Government lender. Commercial in confidence material will not be disclosed. For example, the detailed project risk analysis is part of the Investment Decision process and Board deliberations, and is commercial in confidence.

4.97 At the time of writing, the above-mentioned case study has not been published.

Committee view

Public benefit

4.98 In assessing NAIF's PB Guideline, the committee considers that it appears adequate. The difficulty posed is that because NAIF's due diligence processes are confidential, it is impossible for the committee (or the public) to determine whether the PB Guideline is being adhered to by the board in selecting projects to fund.

4.99 The committee notes that NAIF has made three Investment Decisions and given conditional approval to another project since its establishment. The committee is pleased to see NAIF fulfilling its role as a commercial financier, investing in the construction of Northern Australia economic infrastructure. However, the committee considers that the information provided on NAIF's website about its Investment Decisions lacks sufficient details. In particular, the committee considers NAIF could provide more detail about its Investment Decisions including: when a project might receive funding; the terms of the funding; why the project was selected to receive funding; the true public benefits, including adequate cost-benefit analysis summaries; and most importantly to the Australian taxpayer, how the project proponents intend to pay back the loan. The committee believes that increased communication about its Investment Decisions would greatly benefit NAIF's transparency and assist in improving the way NAIF is perceived by the public.

4.100 The committee agrees with stakeholders that once NAIF has made an Investment Decision, it should be required to publish a statement, detailing how the subject project meets the mandatory criteria in the Investment Mandate.

4.101 The committee notes that NAIF's ESRT Policy requires the board to ensure a project has received all necessary approvals before it provides funding. Where all approvals have not yet been granted, the committee understands that an Investment Decision must stipulate that funding will not be provided until all approvals have been obtained. The committee considers that in such circumstances, it is appropriate for NAIF to publish information about what approvals need to be completed before a project can commence.

4.102 The committee also notes that NAIF's 2017–18 Corporate Plan sets a target for NAIF to deliver between three and five projects in the 2017–18 financial year with a total value of between \$300 million and \$1 billion. The committee notes that NAIF has made three Investment Decisions, however considers that NAIF has not met its performance target, noting that the three Investment Decisions NAIF has announced

have a total value of \$120 million, which falls short of the \$300 million minimum target.

Recommendation 6

4.103 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 the following information on its website:

- **A statement addressing how the project proponent has met the mandatory criteria set out in Schedule 1 of the Investment Mandate;**
- **Information about the loan conditions between the Northern Australia Infrastructure Facility and the project proponent. i.e. expected repayment rates, rate of return and length of investment; and**
- **What approvals need to be completed before a project can commence (e.g. environmental and Native Title approvals).**

Focus on Australia's regional areas

4.104 The committee agrees with the Shepherd review that NAIF must provide the transformative infrastructure required to stimulate economic and population growth in Northern Australia; and believes that success in this objective will see benefit provided to the regions as well as to the main population centres of Northern Australia.

4.105 When considering the types of projects to which NAIF could provide funding, the committee understands that high value projects deliver the best payoff in terms of input costs. However, the committee believes that smaller projects which will deliver localised public benefit should be prioritised. The committee believes NAIF should step up and drive the consideration of projects that will deliver a greater benefit to the regions.

Recommendation 7

4.106 The committee recommends that the Northern Australia Infrastructure Facility prioritise projects that have high local content, procurement and employment plans, to deliver a higher benefit to the regions.

Supporting growth in the tourism industry

4.107 The committee recognises the tourism industry is a major employer in Northern Australia and agrees that investment in projects in the tourism industry would have particular benefits for Northern Australia.

4.108 The committee believes significant benefits could be achieved by investing NAIF funds specifically in tourism, as it is an industry that supports growth and fits with the natural assets and values of the north. The committee also considers that such projects should be prioritised for NAIF investment.

Recommendation 8

4.109 The committee recommends that a portion of the Northern Australia Infrastructure Facility's total funds should be allocated to directly supporting Northern Australia's vital tourism industry.

