

# Chapter 1

## Asset Recycling Fund Bill 2014 and the Asset Recycling Fund (Consequential Amendments) Bill 2014

### Referral

1.1 On 15 May 2014 the Senate passed the following resolution:

To ensure appropriate consideration of time critical bills by Senate committees, the provisions of all bills introduced into the House of Representatives after 15 May 2014 and up to and including 5 June 2014 that contain substantive provisions commencing on or before 1 July 2014 (together with the provisions of any related bill) are referred to committees for inquiry and report by 16 June 2014.<sup>1</sup>

1.2 On 29 May 2014, the Asset Recycling Fund Bill 2014 (ARF Bill) and the Asset Recycling Fund (Consequential Amendments) Bill 2014 (ARF Consequential Amendments Bill) were introduced into the House of Representatives by the Hon Steven Ciobo MP, Parliamentary Secretary to the Treasurer.<sup>2</sup>

1.3 Accordingly, following their introduction into the House of Representatives, the provisions of the bills were referred to the Senate Finance and Public Administration Legislation Committee (the committee) on 29 May 2014 for inquiry and report by 16 June 2014.

### Purpose of the bills

1.4 The ARF Bill seeks to establish the Asset Recycling Fund (ARF) from 1 July 2014. This new fund:

...will assist the States and Territories to sell existing assets and allow the sale proceeds to be reinvested into new infrastructure. The [ARF] will also facilitate the Government's investment in nationally significant infrastructure projects.<sup>3</sup>

1.5 The ARF Consequential Amendments Bill provides for amendments to be made to other relevant legislation to facilitate the establishment of the ARF, including the *COAG Reform Fund Act 2008*, the *Future Fund Act 2006*, the *Nation Building Funds Act 2008*, and the *DisabilityCare Australia Fund Act 2013*.<sup>4</sup>

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1 *Journals of the Senate*, No. 29 – Thursday, 15 May 2014, p. 821.

2 House of Representatives, *Votes and Proceedings*, No. 41 – 29 May 2014, p. 515.

3 The Hon Steven Ciobo MP, Parliamentary Secretary to the Treasurer, Second reading speech, *House Hansard*, 29 May 2014, p. 8.

4 The Hon Steven Ciobo MP, Parliamentary Secretary to the Treasurer, Second reading speech, *House Hansard*, 29 May 2014, p. 9.

## Conduct of the inquiry

1.6 Details of the inquiry were placed on the committee's website. The committee also directly contacted a number of relevant organisations to notify them of the inquiry and invite submissions by 4 June 2014.

1.7 Submissions received by the committee are listed at Appendix 1. The committee decided to prepare its report on the basis of submissions received. The committee would like to thank those who assisted by providing submissions to the inquiry.

## Background

1.8 As part of the 2014-15 Budget, the government announced an \$11.6 billion Infrastructure Growth Package 'to boost total infrastructure investment by Commonwealth, State and local governments, as well as the private sector, to over \$125 billion by 2019-20'.<sup>5</sup>

1.9 The Infrastructure Growth Package includes \$5 billion over five years towards the Asset Recycling Initiative (ARI) which will 'provide incentive payments to encourage the states and territories to sell assets and recycle the sale proceeds into new productivity-enhancing infrastructure'.<sup>6</sup>

1.10 The ARF is a dedicated investment vehicle which will facilitate the government's investment under the Infrastructure Growth Package in the following way:

The Australian government will pay the states and territories an incentive payment of 15 per cent of the sale price of the asset, to give states and territories an immediate benefit if they recycle their capital investments. This program is time limited, closing in 2018-19.

Payments from the Asset Recycling Fund will also be made to the states and territories for investment in infrastructure under National Partnership Agreements. The fund will also accommodate other infrastructure payments, to be administered by the Department of Infrastructure and Regional Development, including \$350 million for the Roads to Recovery Program.<sup>7</sup>

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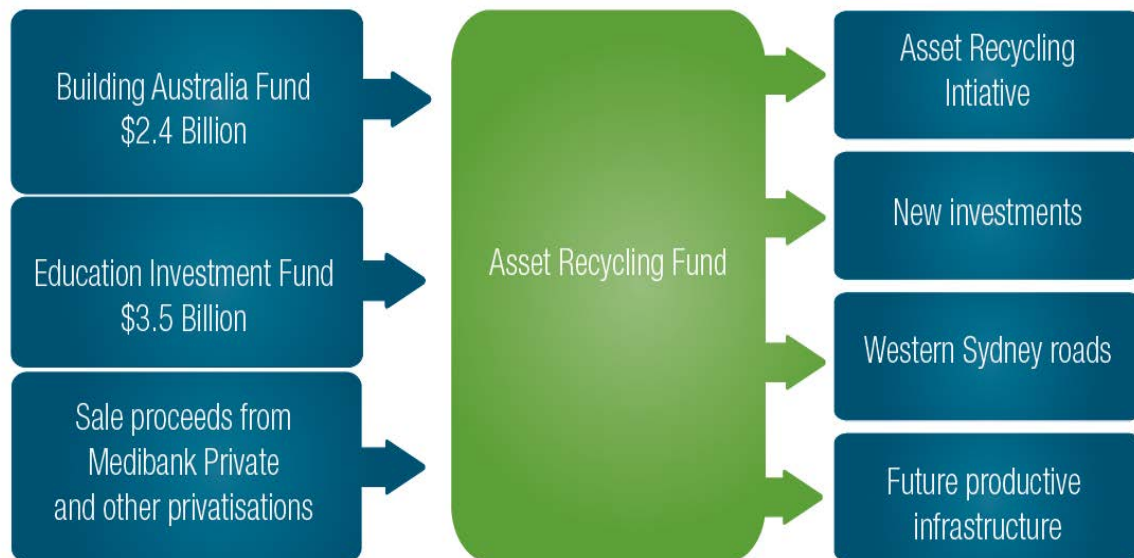
5 Budget 2014-15, *Overview*, 13 May 2014, p. iv. See also The Hon Mr Warren Truss MP, Minister for Infrastructure and Regional Development, *House Hansard*, 4 June 2014, p. 51; Senator the Hon Mathias Cormann, Minister for Finance, Senate Finance and Public Administration Legislation Committee, *Estimates Hansard*, 28 May 2014, pp 109-110.

6 Minister for Infrastructure and Regional Development, the Hon Warren Truss MP and Assistant Minister for Infrastructure and Regional Development, the Hon Jamie Briggs MP, 'Infrastructure Growth Package', *Joint media release*, 13 May 2014. Note: the other components of the Infrastructure Growth Package are \$3.7 billion for the Infrastructure Investment Programme and \$2.9 billion for the Western Sydney Infrastructure Plan.

7 The Hon Steven Ciobo MP, Parliamentary Secretary to the Treasurer, Second reading speech, *House Hansard*, 29 May 2014, pp 8-9.

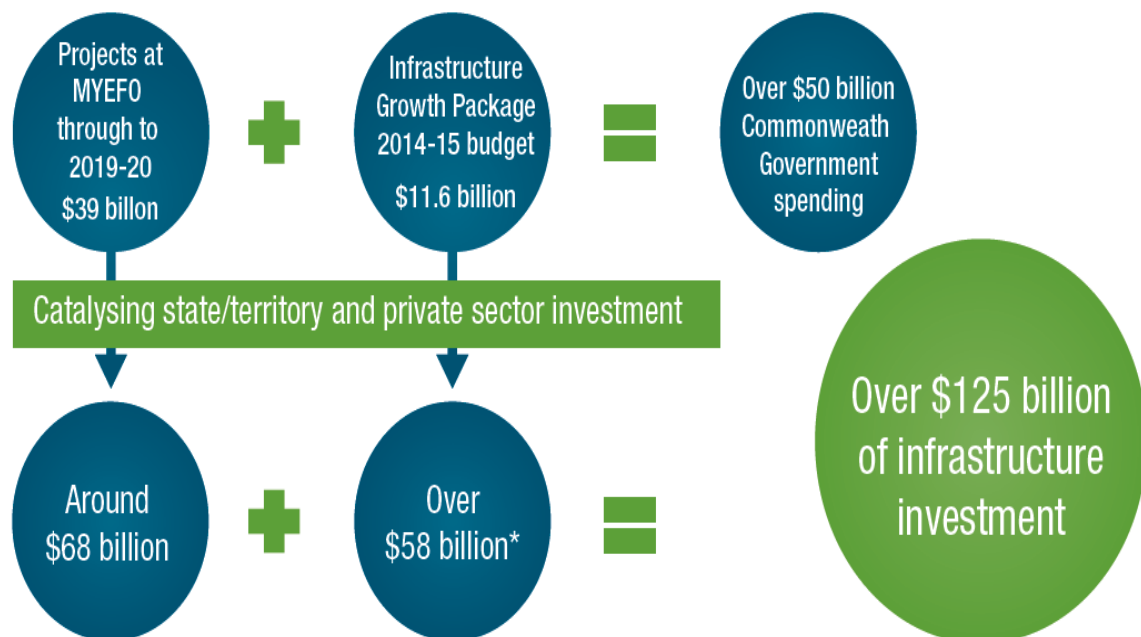
1.11 The process to invest in new infrastructure is outlined in Figure 1 below.<sup>8</sup>

**Figure 1: Funding new infrastructure in the states and territories**



1.12 Expected investment is outlined in Figure 2 below.<sup>9</sup>

**Figure 2: Australian government investment in transport infrastructure**



\*This figure does not include potential additional private sector funding stimulated by the Asset Recycling Initiative.

8 Budget 2014-15, *Overview*, 13 May 2014, p. 16.

9 Budget 2014-15, *Overview*, 13 May 2014, p. 15.

## **Key provisions of the ARF Bill**

### ***Establishment***

1.13 Proposed section 11 establishes the ARF which will consist of amounts credited to an Asset Recycling Fund Special Account and investments of the ARF. The Asset Recycling Fund Special Account would be established by proposed section 12.<sup>10</sup>

### ***Credits***

1.14 Proposed section 13 provides for the ARF to be set up with an initial contribution of approximately \$5.9 billion, comprising uncommitted funds from the Building Australia Fund (BAF) (around \$2.4 billion) and the Education Investment Fund (around \$3.5 billion).<sup>11</sup> It is proposed that the BAF and the EIF will cease operation on 31 December 2014 with the government meeting commitments for payments relating to projects previously approved for funding from these funds.<sup>12</sup>

1.15 The second reading speech indicated that subsequent contributions will be made to the ARF from the sale of Medibank Private and any other future potential privatisations.<sup>13</sup>

### ***Debits***

1.16 The government intends that the COAG Reform Fund will operate as a vehicle through which payments from the ARF are distributed to the states and territories. This intention is reflected in proposed section 20 of the ARF Bill.<sup>14</sup>

### ***Governance***

1.17 The ARF will be managed by the Future Fund Board of Guardians (Future Fund Board), which will be responsible for deciding how to invest the ARF with the objective of 'enhancing the Commonwealth's ability to make grants of financial assistance to the States and Territories and to make infrastructure payments'.<sup>15</sup>

### ***Investment***

1.18 Proposed section 36 provides for the Finance Minister and Treasurer to issue written directions to the Future Fund Board regarding the performance of investments

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10 EM, p. 9.

11 EM, p. 4.

12 Budget 2014-15, Budget Measures, Budget Paper No. 2, p. 114.

13 The Hon Steven Ciobo MP, Parliamentary Secretary to the Treasurer, Second reading speech, *House Hansard*, 29 May 2014, p. 8; See also Budget 2014-15, Budget Measures, Budget Paper No. 2, p. 114.

14 EM, p. 12.

15 EM, p. 5.

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of the ARF in the form of an Investment Mandate.<sup>16</sup> The EM notes that this approach is consistent with the existing approach to the Future Fund.<sup>17</sup>

### ***Earnings and expenses***

1.19 All earnings on ARF investments will be reinvested in the fund. The fund will meet expenses the Future Fund Board incurs from the investment and administration of the ARF.<sup>18</sup>

### ***Reporting***

1.20 The Finance Minister is responsible for reporting and giving information on the ARF, and may seek reports and information from the Future Fund Board.<sup>19</sup>

### **Support for the ARF Bill**

1.21 The committee notes that following the COAG meeting on 2 May 2014 it was announced by the Prime Minister that all State Premiers and Chief Ministers signed up to the 'infrastructure recycling fund' which, it was noted, would be announced and detailed in the 2014-15 Budget.<sup>20</sup>

1.22 Infrastructure Australia supports the passage of the ARF Bill as it will address two current issues in the infrastructure sector:

First, there is a significant infrastructure gap in Australia. Without addressing this gap Australia will face increasing capacity constraints, higher congestion costs and less competitive industries.

Asset recycling recognises that many greenfield infrastructure projects in Australia will require Government involvement and funding of some form in order to be built. It also recognises that State Governments, who are responsible for the delivery of many of these projects, currently face fiscal constraints which limit their ability to support beneficial infrastructure proposals.

The second issue is that State Governments continue to hold large infrastructure assets that could be owned and operated by the private sector. Historically this was necessary given the lack of private sector infrastructure investors and the lack of appropriate regulatory frameworks to protect users from non-competitive behaviour by monopoly infrastructure owners.

However, in recent decades there has been the emergence of private sector infrastructure investors such as superannuation funds and appropriate regulatory frameworks to manage privately owned infrastructure with

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16 The Hon Steven Ciobo MP, Parliamentary Secretary to the Treasurer, Second reading speech, *House Hansard*, 29 May 2014, p. 9; EM, p. 5.

17 EM, p. 17.

18 EM, p. 5.

19 EM, p. 5. See proposed section 52.

20 COAG Press Conference, Parliament House, Canberra, 2 May 2014.

monopoly characteristics. Therefore there is now little need for many publicly owned infrastructure assets to be owned by the public sector.<sup>21</sup>

1.23 Infrastructure Australia also highlighted the benefits that can be created from the transfer of assets to the private sector, including:

[S]eparation of the potentially conflicting roles of regulator and asset owner, the efficiency and accountability benefits of private equity and debt financiers, greater transparency in the costs of community service obligations and access to private sector capital where necessary for efficient economic expansion.<sup>22</sup>

### **Issues raised with the committee**

1.24 The Australian Technology Network (ATN), which consists of five Australian universities,<sup>23</sup> advised that its investment in research and development relies on research infrastructure funded in recent years from the EIF. The ATN recommended that:

ARF investment in national-scale, strategically important research infrastructure be legislated following the abolition of the Education Investment Fund (EIF);

Clear selection and evaluation criteria for infrastructure projects be developed to ensure national-scale research infrastructure projects are given equal consideration with other infrastructure projects in ARF funding decisions by government; and

Recommendations for infrastructure projects should be a broader government decision rather than at a Ministerial level to ensure the needs of industry and the wider community are considered.<sup>24</sup>

### **Conclusion**

1.25 The committee acknowledges the short timeframe for the inquiry. In addition, the committee's deliberations were not assisted by the absence of submissions from the Department of Infrastructure and Regional Development, the Department of Finance or the Treasury.

1.26 The committee has therefore not been in a position to form extensive views on the issues raised with the committee. However, the committee does note the government is providing funding to innovation and research, including \$150 million for the funding of critical research infrastructure.<sup>25</sup>

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21 *Submission 1*, pp 1-2.

22 *Submission 1*, p. 2.

23 Curtin University, Queensland University of Technology, RMIT University, University of South Australia and the University of Technology Sydney.

24 *Submission 2*, p. 2.

25 Budget 2014-15, *Overview*, 13 May 2014, p. 14. See also Budget 2014-15, Budget Measures, Budget Paper No. 2, p. 88.

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1.27 In the circumstances, the committee considers that the relevant departments are best placed to actively consider the issues raised with the committee by the ATN and to consider the appropriateness of any amendments which accord with government policy.

1.28 In principle, the committee supports the creation of a fund to encourage investment in infrastructure. It notes the support of COAG for the fund and that a number of states have already indicated their intention to proceed with asset sales.<sup>26</sup>

### **Recommendation 1**

**1.29 The committee recommends that the bills be passed.**

**Senator Cory Bernardi**

**Chair**

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26 Maria Hatzakis, 'Qld Budget 2014-15: Treasurer Tim Nicholls announces 'cautious' budget with billions of asset sales', ABC News online, 4 June 2014; Kirsten Lawson, 'ACT 2014 Budget: Rates rises, higher fees and deficits', *Canberra Times*, 3 June 2014; Peter Jean, 'ACT government to draw up list of properties for privatisation', *Canberra Times*, 9 December 2013; Andrew Clennell, 'Mike and power: Baird will flag his electricity network sale in the State budget', *The Daily Telegraph*, 2 June 2014; The Hon Mr Warren Truss MP, Minister for Infrastructure and Regional Development, *House Hansard*, 4 June 2014, p. 51.

