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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**NORTHERN AUSTRALIA INFRASTRUCTURE FACILITY (CONSEQUENTIAL
AMENDMENTS) BILL 2016**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Resources, Energy and Northern Australia, the
Honourable Josh Frydenberg MP)

NORTHERN AUSTRALIA INFRASTRUCTURE FACILITY (CONSEQUENTIAL AMENDMENTS) BILL 2016

OUTLINE

The Northern Australia Infrastructure Facility (Consequential Amendments) Bill (the Bill) will amend the *Export Finance and Insurance Corporation Act 1991* (the Efic Act) to provide the Export Finance and Insurance Corporation (Efic) with the following functions:

- to assist the Northern Australia Infrastructure Facility (the Facility); and
- to assist, on agreement, the States and Territories.

These functions are in relation to grants of financial assistance and financial arrangements for the construction of northern Australia economic infrastructure.

The Bill will also allow Efic to charge fees to the Facility and the States and Territories for the services it provides in performing its functions for the Facility and the States and Territories.

The Bill enables, but does not require, the Facility to use Efic for the provision of services. By enabling the Facility to use Efic there is the potential to utilise existing Commonwealth expertise and provide cost-effective services for the Facility.

Similarly, allowing Efic to assist the States and Territories also provides the option to utilise existing Commonwealth expertise.

FINANCIAL IMPACT

The Bill has no financial impact.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

NORTHERN AUSTRALIA INFRASTRUCTURE FACILITY (CONSEQUENTIAL AMENDMENTS) BILL 2016

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

The Northern Australia Infrastructure Facility (Consequential Amendments) Bill (the Bill) will amend the *Export Finance and Insurance Corporation Act 1991* (the Efic Act) to provide the Export Finance and Insurance Corporation (Efic) the functions:

- to assist the Northern Australia Infrastructure Facility (the Facility); and
- to assist, on agreement, the States and Territories.

These functions are in relation to grants of financial assistance and financial arrangements for the construction of northern Australia economic infrastructure.

The Bill will also allow Efic to charge fees to the Facility and the States and Territories for the services it provides in performing its functions for the Facility and the States and Territories.

The Bill enables, but does not require, the Facility to use Efic for the provision of services. By enabling the Facility to use Efic there is the potential to utilise existing Commonwealth expertise and provide cost-effective services for the Facility.

Similarly, allowing Efic to assist the States and Territories also provides the option to utilise existing Commonwealth expertise.

Human rights implications

This Bill does not engage any of the applicable rights or freedoms outlined in the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Conclusion

This Bill is compatible with human rights as it does not raise any human rights issues.

**The Minister for Energy, Resources and Northern Australia, the
Honourable Josh Frydenberg MP**

NORTHERN AUSTRALIA INFRASTRUCTURE FACILITY (CONSEQUENTIAL AMENDMENT) BILL 2016

NOTES ON CLAUSES

Part 1 - Preliminary

Clause 1 - Short Title

Specifies the short title of the Act as the *Northern Australia Infrastructure Facility (Consequential Amendment) Act 2016*.

Clause 2 – Commencement

The table in this clause sets out the commencement date for when the Bill's provisions commence. Schedule 1 of the Bill will commence immediately after the commencement of the *Northern Australia Infrastructure Facility Act 2016*.

Clause 3- Schedules

This clause provides that an Act that is specified in a Schedule is amended or repealed as set out in that Schedule and any other item in a Schedule operates according to its terms.

Schedule 1 - Amendments

Export Finance and Insurance Corporation Act 1991 (the Efic Act)

Clause 1 - Subsection 3(1)

Clause 1 inserts definitions for “EFIC’s northern Australia economic infrastructure functions” and “northern Australia economic infrastructure” into subsection 3(1)

Clause 2 – After paragraph 7(1)(d)

Clause 2 inserts new paragraphs 7(1)(da) and 7(1)(db) following paragraph 7(1)(d) of the Efic Act. The purpose of these insertions are to give Efic additional functions to ensure Efic may support the Northern Australian Infrastructure Facility (the Facility), and States and Territories, in relation to the grants of financial assistance for the construction of northern Australia economic infrastructure.

Paragraph 7(1)(da) provides Efic the function of assisting the Facility in the performance of its functions.

Paragraph 7(1)(db) provides Efic the function of being able to agree with the States and Territories to provide incidental assistance, to the 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

It is intended that, wherever possible, all functions and support undertaken by Efic related to the *Northern Australian Infrastructure Facility Act 2016*, either on behalf of the facility itself, or on behalf of the States and Territory, will be negotiated and contracted by the Facility. Only in circumstances where this is not possible will Efic be contracted directly by the States and Territories to undertake support related to the Facility.

Clause 3 - At the end of section 8

Clause 3 inserts a new subsection at the end of section 8 of the Efic Act, which outlines the primary duties of Efic. The insertion ensures that Efic may support the Facility, and the States and Territories, without contradicting its primary duty; to facilitate and encourage Australian export trade and related activities.

Clause 4 - At the end of section 9

Clause 4 ensures the Ministerial powers relating to entering, or not entering into a particular contract or the giving of a particular guarantee or the making of a particular loan under the Efic Act, do not apply to the functions it undertakes on behalf of the Facility.

Clause 5 - After section 84

Clause 5 inserts a new section 84 of the Efic Act, which enables Efic to charge the Facility, and the States and Territory, fees for the services provided in performing its northern Australia economic infrastructure functions. For clarity, these fees will be charged on a cost recovery basis and such fees do not amount to taxation.

Legislation Brief – Northern Australia Infrastructure Facility Bill 2016 (the Facility Bill) and Northern Australia Infrastructure Facility (Consequential Amendments) Bill 2016 (the Consequential Amendments Bill)	
Portfolio	Resources, Energy and Northern Australia The Hon Josh Frydenberg MP
Background	The Facility was announced in the Government’s 2015-16 Budget. It is a major initiative of the Government’s White Paper on Developing Northern Australia (Our North, Our Future) and is integral to the Government’s strategy for developing the north.
Reasons and Outcomes (if relevant)	<p>The Facility Bill establishes the Northern Australia Infrastructure Facility to make grants of financial assistance to State and Territory governments for the purposes of developing economic infrastructure in Northern Australia</p> <p>The Facility will offer provide up to \$5.0 billion in concessional finance over five years to encourage and complement private and public sector investment in economic infrastructure that otherwise would not be built or would not be built for some time. The financial assistance will be delivered in partnership with State and Territory Governments.</p> <p>The Northern Australia Infrastructure Facility (Consequential Amendments) Bill (the Consequential Amendments Bill) will amend the Export Finance and Insurance Corporation Act 1991 (the Efic Act) to provide the Export Finance and Insurance Corporation (Efic) with the following functions:</p> <ul style="list-style-type: none"> • to assist the Northern Australia Infrastructure Facility (the Facility); and • to assist, on agreement, the States and Territories.
Financial implications	The cost of administering the Facility, which will provide up to \$5.0 billion in financial assistance for the construction of infrastructure projects in Northern Australia, is estimated to be \$39.7 million over a five year period commencing in 2016–17. These costs will be recovered through fee revenue, estimated to be \$40.2 million over the same period. The Consequential Amendments Bill has no financial impact on the Commonwealth.
Timing	Passage and introduction prior to the end of May 2016
Reasons for timing	<p>The Bill must be passed before the end of May 2016.</p> <p>This is to allow the Facility to be established and the Board appointed prior to loan decisions being made from 1 July 2016.</p> <p>The ability to make loans from 1 July 2016 is consistent with the Government’s 2015-16 Budget commitment and a decision by Cabinet.</p>
Minister’s Office	Office of the Hon Josh Frydenberg MP, Minister for Resources, Energy and Northern Australia