LOCK THE GATE **ALLIANCE**
AUSTRALIANS WORKING TOGETHER TO PROTECT OUR LAND, WATER, AND FUTURE

Lock the Gate Alliance

13 December 2019

Please accept this submission to the statutory review of the *Northern Australia Infrastructure Act 2016* on behalf of Lock the Gate Alliance. It provides responses to the questions raised in the issues paper released for the review.

Review question 1

We believe the NAIF eligibility criteria should be altered to improve infrastructure investment in northern Australia. We believe the eligibility criteria should be focussed on agriculture, telecommunications, transport and renewable energy and should prohibit investment in the coal, oil and gas sector to avoid the risk of stranded assets and in recognition that new fossil fuel infrastructure is incompatible with the Paris Agreement. Telecommunications, transport and renewable energy are especially relevant because they deliver a very clear public benefit, rather than prioritising private benefit to a single company as is largely the case with resource companies. With more recent evidence that large mining and gas companies are not paying corporate tax in Australia, it becomes an even greater misuse of public funds to subsidise their activities. More priority should also be given to Indigenous-owned enterprises.

We suggest that the Clean Energy Finance Corporation's requirements should be considered for inclusion in the eligibility criteria for any infrastructure in the energy sector to avoid investments that unduly contribute to carbon emissions. It is clear from the IPCC 1.5 Special report that expansion of fossil fuel industries is not consistent with limiting climate heating to 1.5°C and allocating public funds to assets that are likely to rapidly become stranded is completely unacceptable from a risk management perspective.

We believe that NAIF should not be permitted to make equity investments, because they create issues regarding control and direction of projects, increase risks and complexities and would completely change the nature of the NAIF.

Review Question 2

We believe that NAIF's focus should be changed to clearly focus on telecommunications, agriculture, renewable energy and transport. Telecommunications continues to be a major impediment to development opportunities in Northern Australia, as does remoteness and limited transport infrastructure.

We believe NAIF should particularly be deployed in a strategic way to prepare Northern Australia for a switch to major renewable export opportunities. It is well recognised that the big new economic opportunity for Northern Australia is renewable exports, and NAIF should be working with leaders in government and in those industries to identify the major infrastructure needs that are most crucial to underpin the development of these new export opportunities. Pursuing this approach would make NAIF the game-changing, future-focused program, which Australian expect from the allocation of such a large sum of public money.

We also believe the characteristics of Northern Australia mean that NAIF should provide more support for small-scale infrastructure projects where appropriate, because these can be incredibly important in a local context. We believe small-scale infrastructure projects sought by remote Indigenous communities should be a high priority, including shifting communities from diesel to cheaper renewable energy where that is sought by them.

Review Question 3

We have not seen substantial benefit to Aboriginal and Torres Strait Islanders from the NAIF funding provided to date. We believe NAIF should be better structured to meet the infrastructure needs of remote Indigenous communities and to support Indigenous businesses. We believe this should become a far higher priority for NAIF going forward. We particularly note that many remote communities are paying for expensive diesel power, and that supporting a shift to far cheaper renewable energy would provide a major public benefit to communities and any Indigenous businesses operating within them. We note that a number of communities we work with have indicated an interest in making the shift but have limited resources available to achieve it.

Review Question 4

We do not believe the approach to risk in the legislation is fit-for-purpose. Media has reported substantial national security risks which need to be addressed relating to foreign ownership of infrastructure. These concerns are also reflected in the *Security of Infrastructure Act 2018*. We note Jemena is seeking NAIF funding for the Galilee Gas Pipeline. Jemena is 60% owned by the State Grid Corporation of China and 40% by Singapore Power. If Jemena were provided with a NAIF loan, it would amount to two wealthy nation states, with whom in the case of China we have a very complex national security relationship, being provided taxpayer dollars to subsidise the development infrastructure which they then own. We believe companies owned by foreign nations should not be eligible for NAIF funding, not only because it opens up serious national security risks but because it also represents a mis-use of hard-earned taxpayers funds that are seeking to support Australian businesses first and foremost, not subsidise the balance sheets of foreign governments.

We believe it needs to be made abundantly clear that the NAIF board have a legal duty to act on climate change risk when making investment decisions and to include that risk in corporate strategies and to report on it. In accordance with Hutley SC's 2019 memorandum on directors' duties, and equivalent obligations for Commonwealth officials, NAIF's risk management framework should explicitly incorporate considerations under a 1.5C climate scenario. We believe that NAIF and the Federal Government makes itself legally vulnerable if it does not dramatically increase action and disclosure on climate change risk.

Specifically, where fossil fuel infrastructure is funded by NAIF, including current proposals such as the expansion of Jemena Northern Gas Pipeline, NAIF's directors face a genuine risk of breaching their statutory directors' duties.

We believe that NAIF's Environmental and Social Review of Transactions Policy does not give due weight to climate change risk. It does not make it clear that climate risks are *financial risks*, as opposed to ethical considerations. The policy therefore risks guiding the Board to improper consideration of material financial risks.

We recommend that the Risk Appetite Statement and ESG Policy should be amended to clarify that climate change risks are financial risks which must be taken into account in decision making and that require compliance with the climate goals of the Paris Agreement for 1.5°C.

Review Question 5

We do not believe that the NAIF's current governance framework is fit-for-purpose. The Australian National Audit Office has identified a number of short-comings with it and these should all be addressed in full.

In addition, we contend that public accountability and transparency standards are severely lacking with regard to NAIF. The NAIF operates largely in secrecy with proposals and processes predominantly entirely hidden from public view. Regional communities are given little or no formal information about projects that are under active consideration, and there appears to be little or no consultation in affected regions with many key stakeholders. We would like to see a far more open process, which includes the NAIF identifying lists of potential projects for consideration and inviting community submissions. The NAIF also needs to publish the assessment of projects against consistent criteria, to provide some certainty to the community that there is a fair and rigorous process in place.

We recommend a requirement to include a member on the NAIF Board who has expertise in climate change risk. This should be included in the NAIF's governance framework. Climate change is recognised as the most important long-term risk globally for assets like infrastructure according to the World Economic Forum. It is extremely irresponsible to not have the relevant expertise and processes to assess it.

Thank you for your consideration of these matters.