

INDUSTRY AND TECHNOLOGY DEVELOPMENT AMENDMENT BILL 2021

EXPLANATORY MEMORANDUM

The purpose of the Industry and Technology Development Amendment Bill 2021 is to ratify amendments to the *Industry and Technology Development Act 1998*, which seek to allow disbursement of Northern Australia Infrastructure Facility (NAIF) finance to Government Trading Enterprises, and to remove references to the now defunct Technology and Industry Advisory Council (TIAC).

NAIF is an initiative of the Australian Government. However, for constitutional reasons, State Governments administer NAIF finance. In Western Australia, NAIF is administered pursuant to the *Industry and Technology Development Act 1998*. Due to the definition of ‘industry’ contained in the legislation, NAIF cannot finance infrastructure projects delivered by Government Trading Enterprises.

While the State Government does not have the same barriers to accessing financing markets that some private sector proponents experience, it is often asked to underwrite or otherwise support industrial development through the provision of infrastructure. This leads to the State either being exposed to the project seeking to use that infrastructure as a foundation proponent, or requiring a guarantee from that proponent to de-risk the State’s investment. Proponents without substantial balance sheets are often unable to meet the latter requirement.

Amending the *Industry and Technology Development Act 1998* to include Government Trading Enterprises in the definition of “industry” will remove barriers to co-investment in Government owned infrastructure by NAIF, opening up numerous opportunities for investment in regional areas.

TIAC is a legislated body, the functions of which are governed under the *Industry and Technology Development Act 1998*. In July 2018, the Premier, as the Minister responsible for the ITD Act, requested that JTSI liaise with all relevant parties and commence ceasing the functions and operations of TIAC. TIAC members were provided with a letter of direction advising that the operations and functions of TIAC would cease as of 31 August 2018. The Industry and Technology Development Amendment Bill 2021 seeks to rationalise this decision with the provisions of the *Industry and Technology Development Act 1998*, by removing all references to TIAC.

Part 1 - Preliminary

Section 1 (Short title)

This Act may be cited as the *Industry and Technology Development Amendment Act 2021*.

Section 2 (Commencement)

Subclause 2(a) provides that Part 1 of the Act comes into operation on the day on which the Act receives Royal Assent.

Subclause 2 (b) provides that the rest of the Act comes into operation on the day after the day the Act receives Royal Assent.

Part 2 – Industry and Technology Development Act 1998 amended

Section 3 (Act amended)

This section specifies that the Act amends the *Industry and Technology Development Act 1998* (the Act).

Section 4 (Long title amended)

This section deletes the words “**to continue the Western Australian Technology and Industry Advisory Council**” from the long title of the Act.

This reflects the dissolution of TIAC 2018 by removing references to TIAC from the Act.

Section 5 (Section 4 amended)

Subclause 5(1) amends section 4 by deleting the definitions of *appointed member, chairperson, committee, Council and member*.

- This reflects the dissolution of TIAC 2018 by removing references to TIAC from the Act.

Subclause 5 (2) inserts the definition for government trading enterprise into the Act.

Subclause 5 (3) replaces “entity)” with “entity or a government trading enterprise)” in section 4.

- These changes reflect the intention of expanding the operation of the act, including the powers and functions of the Minister, such as the provision of financial support, to apply in respect of Government Trading Enterprises as well as private industry.
- The definition of Government Trading Enterprise aligns with the definition used in the *Infrastructure Western Australia Act 2019*.

Section 6 (Section 6 amended)

This section deletes section 6(d) from the Act.

- This reflects the dissolution of TIAC 2018 by removing references to TIAC from the Act.

Section 7 (Schedule 15 amended)

Subclause 15(1) replaces “Act, including appropriations made for the purposes of enabling the Council to carry out its functions;” with “Act; and” in section 15(2)(a).

Subclause 15(2) replaces “Act, including appropriations made for the purposes of enabling the Council to carry out its functions;” with “Act; and” in section 15(3)(a).

- This reflects the dissolution of TIAC 2018 by removing references to TIAC from the Act.

Section 8 (Part 6 deleted)

This section deletes Part 6 from the Act.

- This reflects the dissolution of TIAC 2018 by removing references to TIAC from the Act.

Section 9 (Section 32 amended)

This section inserts “and” after “Act;” in section 32(2)(a) and replaces “department and the Council; and” with “department; and” in section 32(2)(b).

- This reflects the dissolution of TIAC 2018 by removing references to TIAC from the Act.

Section 10 (Schedule 1 deleted)

This section deletes Schedule 1 from the Act.

- This reflects the dissolution of TIAC 2018 by removing references to TIAC from the Act.

Part 3 – *Constitution Acts Amendment Act 1899* amended

Section 11 (Act amended)

This section specifies the Industry and Technology Development Amendment Bill 2021 also amends the *Constitution Acts Amendment Act 1899*.

Section 12 (Schedule V Part 3 amended)

This section deletes the item relating to the Western Australian Technology and Industry Advisory Council from Schedule V Part 3.

- Amendments to the *Constitution Acts Amendment Act 1899* are required to remove references to TIAC, reflecting its dissolution in 2018.