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Senate Economics Legislation Committee
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Joint ENGO submission to the Senate Economics Legislation Committee on the inquiry into the governance and operation of the Northern Australia Infrastructure Facility (NAIF)

The Arid Lands Environment Centre (ALEC), Cairns and Far North Environment Centre (CAFNEC), Environment Centre NT (ECNT) and Environs Kimberley (EK) are the peak regional environmental organisations servicing Central Australia, Far North Queensland, the Northern Territory and Kimberley region respectively. Collectively, our organisations cover environmental issues across much of Northern Australia and have done so for decades.

We thank you for the opportunity to make a submission to this inquiry. We, the undersigned environmental organisations operating across Northern Australia are pleased that the NAIF is being investigated by this committee. We provide the following concerns about aspects of NAIF's governance and operation as per the outlined terms of reference:

a. The adequacy and transparency of the NAIF's governance framework, including its project assessment and approval processes:

Revelations that the NAIF has been processing applications for funding long before being properly constituted is deeply concerning. It is a given that any Federal body, especially one in charge of considerable sums of money, have an appropriate governance framework to ensure decisions are transparent and unbiased. Despite this, Adani's proposal for NAIF funding to build a rail line for the Carmichael mine was announced in December 2016, yet policy statements outlining the NAIF governance framework are dated June 2017, some six months later.

NAIF application policies and submission process are not sufficiently detailed and Senator Canavan has not inspired confidence in the process, having stated that *"There is not really a formal submission application process. There are discussions that occur between the board"*. In addition, NAIF has not disclosed (or refuses to disclose) information about project proponents, schedule for board meetings or stakeholder engagement, failures that inspire even less trust in their policies and procedures. In summary we are concerned that NAIF's processes are not sufficient to responsibly manage the investment of such a large sum of public money.



b. The adequacy of the NAIF’s Investment Mandate, risk appetite statement and public interest test in guiding decisions of the NAIF Board:

In general terms, the NAIF Investment Mandate, its risk appetite statement and its public interest test all appear to lack the necessary considerations for the environmental and social impacts of potential projects, and in particular, Climate Change. ‘Best practice’ public investment should include consideration of environmental and social risks, including climate risks. The public should be able to expect no less than best practice from Federal Government bodies.

NAIF’s Investment Mandate defines ‘public benefit’ in (s.9) as giving preference to projects that will “1. serve or have the capacity to serve multiple users; and 2. produce benefits to the broader economy and community beyond those able to be captured by Project Proponents.” While we consider this definition too vague for its purposes, it is difficult to see how a loan to the Adani group for a rail line to service the Carmichael coal mine could result in public benefit if climate risks were taken into consideration. Northern Australia is on the frontline of Climate Change. With the Great Barrier Reef experiencing severe bleaching events two years in a row, thousands of hectares of mangrove habitat dying in the Gulf of Carpentaria, coral bleaching in the Kimberley and communities in the north already facing the challenges of a changing climate, now is not the time to be investing in infrastructure to further the fossil fuel industry. Any attempt to drive development in Northern Australia should take these sensitivities into account and strive for sustainability, innovation and diversity. Developing the north should be about harnessing industries and jobs for the future, not expanding industries that cause or exacerbate the impacts of Climate Change and, through technological advances, are becoming lighter in delivering jobs.

The NAIF Investment Mandate preferences large projects (minimum value \$100 million), evidenced by the proposal to spend one fifth of the entire allocated funds on Adani’s rail line. Yet significant benefits could be achieved by investing in smaller projects across a range of industries such as renewable energy, transport and tourism: industries that support growth that fits with the natural assets and values of the north.

No consideration of environmental and social interests appear to be covered in the cost-benefit analysis, and the terms of NAIF’s Indigenous engagement cannot be gauged as the body has failed to make its Indigenous Engagement Strategy public. This is unacceptable, given that much of Northern Australia is Indigenous owned and managed land.

We believe that a rigorous re-assessment of the NAIF Investment Mandate and public interest test is desperately needed to ensure that the huge sum of public money entrusted to NAIF to disseminate is allocated to projects that will future-proof Northern Australia. A start could be made on this by taking into consideration climate risk and removing incentives for large-scale projects to promote greater investment



diversity.

- c. **Processes used to appoint NAIF Board members, including assessment of potential conflicts of interest, and**
- d. **The transparency of NAIF's policies in managing perceived, actual or potential conflicts of interest of its Board members:**

Members of the appointed NAIF board have backgrounds that are strongly skewed towards fossil fuels and mining, and appear to have limited expertise in other industries that play large roles (or have the potential to grow further) in Northern Australia, such as renewable energy, agriculture and tourism. Some NAIF board members have direct conflicts of interest with the Adani project, and it isn't clear how this is being dealt with. For example, Karla Way-McPhail has publicly described the Adani project as 'vital'. Given the amount of money on the table, potential conflicts of interest should be treated with the highest level of scrutiny and seriousness.

- e. **The adequacy of the Northern Australia Infrastructure Facility Act 2016 and Investment Mandate to provide for and maintain the independence of decisions of the Board:**

In our opinion, the independence of the decisions of the board has been seriously eroded by Senator Canavan's unwavering support for the Adani group and their NAIF submission as well as his role in appointing members of the board. Similarly, the Federal Government's continual promotion of Adani's application, interventions by Gautam Adani into Australian law reforms and the stated view of particular board members all raise red flags about the independence of NAIF administration systems, which must be investigated thoroughly.

- f. **The status and role of state and territory governments under the NAIF, including any agreements between states and territories and the Federal Government:**

The constitutional relationship between NAIF, the Federal Government and State/Territory Governments is not clear and NAIF has not made public the Master Facility agreement, which is crucial to understanding this. It seems the Queensland Government itself was confused about its role in granting State consent for funds. These are fundamental governance issues that should have been clearly communicated and understood between all parties before NAIF was announced to the public in December 2016.

- g. **any other related matters.**

It is simply inappropriate for the Australian Government to finance part of the Carmichael project, as it



will directly and significantly contribute to Climate Change. The Australian Government has legal obligations under the Paris Agreement that could be contravened by such an act, not to mention moral obligations to present and future generations.

The NAIF investment mandate's Reputation clause (s.16) states that "The Facility must not act in a way that is likely to cause damage to the Commonwealth Government's reputation, or that of a relevant State or Territory government." Considering the track record of the Adani group outside of Australia (subject to an ongoing fraud and corruption inquiries) it would be unseemly and unsuitable for the Australian Government to invest any money in this company.

Thank you for the opportunity to provide feedback to this enquiry. This submission has been supported by the technical assistance and expertise of a number of individuals and organisations, including but not limited to the Arid Lands Environment Centre (ALEC), Cairns and Far North Environment Centre (CAFNEC), Environment Centre NT (ECNT) and Environs Kimberley (EK).

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