

**Submission by Claire Gronow to the Senate Economics References Committee
inquiry into Governance and operation of the Northern Australia Infrastructure
Facility (NAIF).**

24th July 2017

Thank you for the opportunity to make a submission to this Senate enquiry.

My concerns regarding the Northern Australia Infrastructure Facility (NAIF) centre largely on the first two items of the terms of reference:

- the adequacy and transparency of the NAIF's governance framework, including its project assessment and approval processes;
- the adequacy of the NAIF's Investment Mandate, risk appetite statement and public interest test in guiding decisions of the NAIF Board;

I note the requirements of the *Northern Australia Infrastructure Facility Investment Mandate Direction 2016* in relation to determining whether a proposal is suitable for funding under the scheme. I consider these requirements to be dangerously simplistic in several regards which I will outline in this submission.

From an environmental point of view, the only criterion is, as specified in section 15 (1), that:

The Facility may consider and approve Investment Proposals conditional upon the Project Proponent obtaining all relevant regulatory, environmental and Native Title approvals and arrangements as required by the relevant jurisdiction.

I consider that the criteria for determining the suitability and acceptability of proposals for NAIF funding are woefully inadequate and simplistic, and, if these are the only criteria applied, it is likely that proposals funded by NAIF will cause more harm than good.

Having practiced in environmental impact assessment in Australia since 1991, I am not convinced that merely holding an environmental approval under Federal and/or State legislation is a reliable indicator that a proposal has low impacts. Firstly, refusal rates are very low under both the *Environmental Protection Biodiversity Conservation Act 1999* (EPBC Act) and the *Queensland State Development Public Work Organisation Act 1971* (SDPWO Act). In the period from 2000 to 30 June 2015, there have been 11 proposals refused and 799¹ approved under the EPBC Act. As far as I am aware, only two projects have ever been refused under the Queensland SDPWO Act EIS process. As there is a deplorable lack of follow-up and validation of the actual impacts of proposals approved under these Acts, there is no way of knowing whether these assessment and approval processes are actually delivering environmental protection outcomes. State of the Environment reporting would indicate that environmental degradation continues across all measures except for air quality.

There are also serious questions regarding the Australian and Queensland government's ability to enforce compliance with approval conditions, particularly where those conditions rest on proponents undertaking post-approval environmental survey work and preparing adaptive

¹ Not including proposals that were not a controlled action – particular manner

management plans. The track record of recipients of NAIF funding in environmental compliance, both in Australia and overseas, should therefore be carefully investigated. This investigation should extend to individual officers in key corporate positions, as well as related corporate entities.

I also note that for each of the Federal and State/Territory approval processes, the Statutory Decision Maker can consider social and economic benefits of development proposals and trade these off against environmental impacts. This means that proposals with significant environmental impacts are generally considered acceptable in the light of creation of jobs and economic activity. It appears to be common for proponents to grossly overstate the employment and economic benefits of proposals as has been shown in recent cases², for example *Adani Mining Pty Ltd v Land Services of Coast and Country Inc & Ors* [2015] QLC 48 and *New Acland Coal Pty Ltd v Ashman & Ors and Chief Executive, Department of Environment and Heritage Protection (No. 4)* [2017] QLC 24.

In the Adani case, it was proven in court that the economic assessment in the EIS grossly over-exaggerated the number of jobs and also failed to take into account other significant factors in its cost benefit analysis³ for the mine and rail components. Neither the Australian nor Queensland governments revisited their approval decisions, in spite of these decisions resting on the fact that the (erroneously stated) economic benefits outweighed environmental impacts. Thus, there are serious questions about whether the economic and employment benefits of these projects actually outweigh the environmental impacts, but no mechanism under the NAIF criteria to check this.

Of course, I understand that NAIF funding is directed toward infrastructure, for example a railway line, rather than a mining proposal. However, in the case of the Adani proposal, and other coal mining proposals in the Galilee basin, a railway line is a critical precursor to making the proposal in any way financially attractive. I note that the criteria favour proposals that will “serve or have the capacity to serve multiple users”, however this highlights a significant shortcoming in the proposal selection process. There is no allowance within the criteria for evaluation of the impacts of consequential or facilitated development that inevitably arises from infrastructure provision. Again using the Adani project as an example, an (effectively free) railway line to the Galilee Basin will improve the economic balance sheet for not one but five large coal mines that have already been approved, and several others that are currently undergoing assessment. No cumulative impact assessment has been undertaken of the combined effects of these coal mines on:

- Carbon emissions and climate change
- Water resources, both groundwater and surface water from:
 - Extraction and use
 - Pollution
- Ecological values including:
 - Groundwater dependent ecosystems
 - Habitat for endangered species, particularly the Black-throated finch
 - Biodiversity generally in this little-studied area.

² For example, <http://archive.sclqld.org.au/qjudgment/2015/QLC15-048.pdf> paras 499-558
<http://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> paras 898-902

³ <http://www.edoqld.org.au/wp-content/uploads/2015/11/mra428-14etc-adani.pdf>

Also, as the same economic impact assessment approach was used in the Alpha Coal, Kevin's Corner, South Galilee and Galilee Coal project, it is likely that any economic and employment benefits of these projects were also significantly overstated, which brings into question whether there is really a public interest in supporting infrastructure that would facilitate any of these projects. Again, the simplistic criteria in the Investment Mandate Direction appear woefully inadequate.

A particularly critical issue in relation to any proposal that supports coalmining is that neither Federal or State/Territory EIA processes address the most significant environmental issue facing Australia and the world at present, greenhouse gas emissions and the impact of these on climate change. In Australia, impacts of climate change on major natural assets such as the Great Barrier Reef, and in the agricultural sector, are already apparent. These changes are already leading to economic and employment losses, however this is not factored into decision-making regarding individual proposals, and clearly is ignored in the Investment Mandate Direction.

I also note that environmental approvals often rely on untested and unreliable mitigation measures being implemented by proponents. Again, using the Galilee Basin coal mines as an example, approval conditions for the mines include adaptive management approaches for groundwater management, offsets for black throated finch and rehabilitation plans that are highly unrealistic given the very good soil and lack of matching of the final landform to existing landform. Looking at the Adani proposal, it is notable that, in spite of Adani's insistence that it intends to proceed, the current plan of operations⁴ does not contain any groundwater monitoring, or other environmental monitoring, rehabilitation trials or any plan to start on the offsets, even though experts agree that replacement habitat needs to be in place before mining commences⁵. I am also not aware that any of the other proponents of coal mine in the Galilee Basin are undertaking these works at present. While I understand that NAIF funding would be directed towards the rail line, the rail line is a central component for the mines to proceed, and hence the issues are relevant.

The NAIF criteria, and indeed the whole Facility, rests on a simplistic, linear relationship between capital investment and economic and employment benefits. In fact, these relationships are extremely complex. I have already cited the Adani and New Acland court cases where economic experts noted the actual number of jobs generated by these proposals is very low, and there are significant flow on effects that may further negate these benefits. I note a recent article in the ABC⁶ that reports on a study that shows that if Galilee Basin mining proceeds there will be significant job losses in existing mining areas in Queensland and New South Wales. Further, the climate change implications of the major coal proposals that would be facilitated by a railway line to the Galilee Basin are such that up to 64,000 tourism related jobs on the Great Barrier Reef are at risk. Finally, the social and socio-economic impacts of large resource and construction projects on local and regional communities are also very complex and difficult to predict. I refer to work undertaken by the Centre for Social Responsibility in Mining⁷ which highlights a number of these issues and

⁴ <http://www.abc.net.au/news/2017-07-10/adani-queensland-coal-mine-plan-raises-doubts-on-viability/8691020>

⁵ http://birdlife.org.au/documents/BTF_Recovery_Team_Carmichael_Mine_Report.pdf

⁶ <http://www.abc.net.au/news/2017-07-06/galilee-basin-mining-project-will-reduce-coal-output:-research/8682164>

⁷ <https://www.csrsm.uq.edu.au/>

suggests that much more sophisticated assessment should be undertaken. It appears that large-scale, short-term projects in rural areas actually have greater impacts than benefits at a local and regional scale due to the need for large numbers of workers to move in.

I call on the Senate inquiry to recommend changes to the economic criteria for NAIF funding to include a more sophisticated economic and socio-economic analysis, and in particular consider long term economic impacts, not just short term, election-cycle impacts. A robust cost-benefit analysis is essential, and should take into account environmental losses, and job losses in other sectors. It should also take into account the financial viability, and risk of premature closure of operations such as coal mines. Unexpected closure of these sorts of facilities has dramatic negative impacts on local and regional communities and hence, a key criteria for NAIF funding should be confidence in the long term viability of proposals that are supported by the fund.

Relatedly, I note that none of the Board members have any particular expertise in environmental or socio-economic issues, nor can I see that they have access to experts in these areas.

It is also not clear whether the public interest test applies across Australia or only in the defined Northern region. For example, I note that Adani has committed to source steel for the railway line from South Australia, however this is outside the NAIF area. It is not clear how this is factored in to decision making under the Investment Mandate Direction.

As a final concern, Item 7(2)(b) of the investment Mandate Direction notes that one of the criteria is that “there is an expectation that the Commonwealth will be repaid, or that the investment can be refinanced”. Thus, NAIF recipients should be subject to same due diligence that would be undertaken by the private financial sector – more so given that this is tax-payer’s money and therefore must be invested with the utmost responsibility. There should be a high degree of confidence that the loan can be repaid, which means that the recipients have to have sizeable assets and a financial base in Australia (not, for example, the Cayman Islands), so that if the recipient defaults, Australia has a reasonable chance of recovering at least some of the debt. Consideration should also be given to the global economic conditions that might influence the profitability, or even viability of proposals that are to be supported by NAIF. Where, as is the case for thermal coal, the global market appears to be in structural decline, this indicates that these proposals are highly risky.

The Terms of Reference for the inquiry include consideration of the transparency of processes established by NAIF. As far as I can tell, there is no transparency, and I urge the Senate to recommend significant changes. For example, evaluations of proposals being considered for funding should be made available for public comment. An independent third party review by qualified experts should also be built into processes.

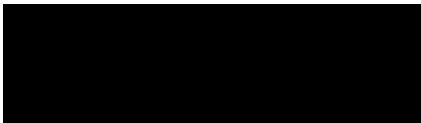
In summary, I call on the Senate inquiry to recommend a much more robust process for evaluating applications for funding by the NAIF. The process should include:

- An independent review of the long term environmental and socio-economic impacts of the proposal itself, particularly where these are to be traded off against short term economic and job gains.
- A thorough review of cumulative environmental and social impacts of any proposal.

- A thorough review of consequential and facilitated impacts of other proposals that would be able to proceed if NAIF funding was provided to a particular piece of infrastructure.
- A sophisticated cost-benefit analysis, including identification of job losses in other sectors due to environmental and social impacts of funded proposals and consequential proposals.
- A thorough review of the environmental compliance and corporate social responsibility credentials of the applicant, associated companies and major office bearers, including overseas performance.
- Opportunity for public comment on all of these items
- Third party, independent peer review of these items.

I would be pleased to discuss any aspect of this submission in more detail, or to appear before any hearing.

Yours sincerely



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