



14 July 2017

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Submission: *Environment and Infrastructure Legislation Amendment (Stop Adani) Bill 2017*

We refer to the Committee's inquiry in relation to the above Bill.

Together with Earthjustice, a US based public interest environmental law organisation, we have thoroughly researched the track record of the Adani Group and officers of the company. The reports that we have produced are enclosed and may be of assistance to the Committee in this inquiry:

- *Can the Adani Group be trusted to comply with environmental laws? The Adani Group's environmental record* (October 2015).
- *The Adani Brief. What governments and financiers need to know about the Adani Group's record overseas* (February 2017).

We offer the following observations in relation to Committee's consideration of the Bill:

1. As the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) already recognises, the record of compliance with environmental laws is an important consideration in deciding whether to grant an approval.

Failure to consider the past conduct of those seeking approvals under environmental legislation undermines public confidence in decision making. Consideration of an applicant's environmental history as part of the approval process is consistent with a preventative and risk based approach to decision making, where all relevant factors are considered and weighed at the earliest possible opportunity rather than left to be dealt with once an approval has been granted.

The Bill's proposal to amend the EPBC Act to ensure this information *must* rather than *may* be considered is welcome.

2. Once the need to consider such information is recognised, it is necessary to ensure that all relevant information is available to the decision maker. This is particularly important in the case of foreign or

multinational corporations such as Adani as the record of their operations in Australia may not reveal a complete picture in relation to their compliance with environmental and other laws.

Our research demonstrated some uncertainty about the ability of Australian decision makers to consider all relevant information, particularly in relation to the environmental history of officers and associated entities outside of Australia. The Bill would put beyond doubt that the matters relevant under the EPBC in relation to a company's environmental history extend to the environmental history of the company, its officers and associated entities, both here and overseas.

3. The arguments in relation to the relevance of a proponent's environmental history both here and overseas to the grant of approvals apply equally if not more strongly to any decision to provide public financial support to a project. The amendments proposed in Schedule 2 of the Bill to ensure that the Northern Australia Facility also considers a proponent's environmental history are consistent with the policy rationale for such a consideration under the EPBC Act as outlined above.

Please let us know if we can assist with any additional information.

Yours faithfully

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