

Environment and Infrastructure Legislation Amendment (Stop Adani) Bill 2017

To the Senate Environment and Communications Legislation Committee,

The Australia Institute welcomes the opportunity to make this submission into the inquiry into the *Environment and Infrastructure Legislation Amendment (Stop Adani) Bill 2017* (the Bill).

The Australia Institute is a Canberra-based think tank with a research program covering a wide range of policy, economic and political topics – including on coal, subsidies, the Northern Australia Infrastructure Facility (NAIF) and the Adani Carmichael coal project.

OUR UNDERSTANDING OF THE BILL

The Bill attempts to 'Stop Adani' by

- 1) inserting into the *Northern Australia Infrastructure Facility Act 2016* (NAIF Act) a 'suitable persons' test, and requirements to consult with the Australian Securities and Investment Commission and the Australian Criminal Intelligence Commission;
- 2) inserting into the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) a detailed mandatory requirement to consider the environmental history of those applying for an EPBC approval, or holding an approval subject during EPBC reviews;
- 3) triggering a new review of certain approvals relating to the Adani project, using the amended EPBC Act.

The stated purpose of the new tests is to make the project ineligible for either NAIF subsidies or EPBC approval, in light of Adani's corporate history.

It is important to note the changes to the NAIF Act could be split off and pursued independently from the changes to the EPBC Act.

OUR COMMENTS

We note the merits of the Bill's proposed amendments, in relation to the Adani coal mine but also more broadly, as the new tests would apply to any NAIF or EPBC assessments. We also note the substantial concerns about Adani's corporate history, which would come under closer legal consideration in light of the new tests.

However, this submission outlines a more direct way to prevent the NAIF from subsidising new coal infrastructure.

The submission also outlines the need for a moratorium on any new coal mines, to protect both existing coal mines and jobs, and the environment.

Stopping the NAIF subsidy to coal projects

The Bill proposes to stop NAIF subsidies to Adani by applying a suitable person test. A more direct way to stop the subsidy to Adani is to legislate to prohibit NAIF subsidies to coal-related infrastructure.

It makes neither economic nor environmental sense to subsidise a large new coal mine, nor the coal power plant that the NAIF is currently considering subsidising.¹ Australia and other world governments have committed, in the Paris Agreement, to decarbonise the world economy. Global coal demand is in decline. Clean energy costs are falling fast. Australia's emissions are climbing.

The NAIF Act could be amended to prevent it from funding coal infrastructure. This would not be an alternative, but a complement to the proposals in the Bill.

A clear analogy is provided by the *Clean Energy Finance Corporation Act 2012* (CEFC Act). Under the CEFC Act, the CEFC must not invest in a 'prohibited technology':

62 Prohibited technology

An investment for the purposes of the Corporation's investment function is an investment in a prohibited technology if it is an investment in:

- (a) technology for carbon capture and storage (within the meaning of the National Greenhouse and Energy Reporting Act 2007); or
- (b) nuclear technology; or

¹ <http://www.afr.com/news/politics/northern-australia-infrastructure-facility-weighs-coalfired-power-plant-20170704-gx43sw>

(c) nuclear power.²

The NAIF Act could be amended to include a similar schedule of ineligible technology.

For example, the NAIF Act could rule out financial assistance for the purpose of building “Infrastructure to be used primarily for the purpose of extracting, refining, transporting or generating power from coal.”

Such a prohibition would directly preclude financing from the NAIF to the Adani rail proposal, or other rail or port proposals for coal projects. It would also preclude the reported proposal for NAIF financing to build a coal fired power plant in North Queensland.³ It would redirect NAIF funds instead to projects in other industries like tourism, agriculture and renewable energy.

We note the recommendations from the Productivity Commission (PC) that there is no economic basis for subsidised lending to resource companies in Australia, in its review of Efic, Australia’s export finance agency:

there is no convincing evidence of systemic failures that impede access to finance for large firms or for resource-related projects in Australia.

– EFIC should not continue to provide facilities to large corporate clients or for resource-related projects in Australia, including suppliers to those projects, on the commercial account.⁴

Notably, Efic is conducting NAIF’s project assessment.

We further note that the federal Labor Party rejects subsidies to both Adani’s rail project and to coal power plants. Opposition Leader Bill Shorten rejects the Adani loan proposal, saying the project “has to stand up on its own two feet and it shouldn’t be subsidised by the Australian taxpayer.”⁵ Similarly, Labor Senators, in a Senate Committee report, urged the government to

not provide public financing for new coal fired power plants, noting such public support would not represent value for taxpayer money, violate notions of

² <https://www.legislation.gov.au/Details/C2012A00104>

³ <http://www.afr.com/news/politics/northern-australia-infrastructure-facility-weighs-coalfired-power-plant-20170704-gx43sw>

⁴ <http://www.pc.gov.au/inquiries/completed/export-credit/report/export-credit.pdf> page 2

⁵ <https://www.theguardian.com/australia-news/2017/may/01/bill-shorten-welcomes-jobs-from-adani-coalmine-but-says-taxpayers-shouldnt-foot-bill>
<http://www.abc.net.au/insiders/content/2016/s4661233.htm>

competitive neutrality and would not be consistent with meeting international emission reduction objectives.⁶

These principles should be legislatively enshrined in the NAIF by excluding financing of coal infrastructure.

Requirement to consider climate risk

A further amendment could require the NAIF Board to the government's international commitments under the UN Framework Convention on Climate Change, and to consider energy transition and climate risk.

If the NAIF only considers 'business as usual' energy market scenarios, it will put public finances at risk by failing to properly consider material financial risks from energy transition. It may also promote infrastructure that works against, rather than for, the government's stated policy goals on climate change, causing climate impacts and increasing costs of future abatement.

Currently, climate change or energy transition risks are not mentioned in the NAIF Act, nor the NAIF Investment Mandate nor the NAIF's Environmental and Social Review Policy.

The need for No New Coal Mines

While the above comments relate to the NAIF, it is important to note the significance of the Adani proposal in the context of the economic and environmental need for a moratorium on new coal mines.

The Australia Institute has conducted a range of research on the need for a moratorium on new coal mines and expansions.⁷ Australia has a bigger share of world traded coal than Saudi Arabia has of world traded oil, and there are plans to double Australia's exports. The construction of new coal supply will put downwards pressure on world coal prices. This will impact coal investments and jobs in existing coal regions. A recent analysis from Wood MacKenzie confirmed this argument, showing substantial negative impacts on existing coal regions from the Adani mine and other Galilee Basin mines.⁸ Lower prices will also promote the use of coal elsewhere, increasing emissions

⁶ http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Resilience_of_Electricity_Infrastructure_in_a_Warming_World/ElectricityInfrastructure/Report/d01

⁷ E.g. <http://www.tai.org.au/content/when-you-are-hole-stop-digging>

⁸ <http://www.abc.net.au/news/2017-07-06/galilee-basin-mining-project-will-reduce-coal-output:-research/8682164>

and undermining the Paris Agreement. Indeed, under the Paris Agreement, there is no space for new coal supply.⁹

By contrast, stopping new coal mines through a moratorium will not only support climate change goals, but also protect existing mines. It will put upwards pressure on coal prices, delivering benefits to existing coal producers and state governments, while facilitating a smooth medium-term transition out of coal mining. Our research has shown stopping new mines and allowing existing ones to operate to the end of their approvals would have a very small impact on Australia's economy.¹⁰ This is commensurate with the small size of the industry in terms of employment and GDP. A moratorium will also allow governments to plan properly for a just transition and prevent capital from being risked on stranded assets. Internationally, Australia would join countries with existing domestic moratoria in countries like China¹¹ and Myanmar.¹² It would allow Australia to lead a global dialogue towards a global moratorium on new coal mines.

The construction of the Adani Carmichael coal mine is both materially and symbolically inconsistent with the need for a moratorium. There are good economic and environmental grounds for preventing the Adani mine along with other coal mines. The last thing Australia should be doing is subsidising such projects.

⁹ https://www.carbontracker.org/wp-content/uploads/2015/11/CAR3817_Synthesis_Report_24.11.15_WEB2.pdf

¹⁰ <http://www.tai.org.au/sites/default/files/P198%20Never%20gonna%20dig%20you%20up%20FINAL.1.pdf>

¹¹ <http://www.reuters.com/article/china-coal-closures-idUSL3N1551R4>

¹² <http://www.mmtimes.com/index.php/national-news/nay-pyi-taw/24925-no-more-coal-mining-licences-due-to-harmful-health-effects-says-union-minister.html>

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Level 1, Endeavour House, 1 Franklin St
Canberra, ACT 2601
Tel: (02) 61300530
Email: mail@tai.org.au
Website: www.tai.org.au