

16 March 2017

N. R. Bagade  
Bombay Stock Exchange

By email only: [is@bseindia.com](mailto:is@bseindia.com)

Dear Mr N. R. Bagade

**Adani Enterprises Ltd, Scrip Code: 512599**

1. Environmental Justice Australia is a not-for-profit law firm. We write to you about Adani Enterprises Ltd and disclosure of information to investors. The information concerns the identity of the applicant for financial support from the Northern Australia Infrastructure Facility (**NAIF**) for the Carmichael mine rail project in Queensland, Australia.
2. According to company filings to the Australian Securities and Investments Commission dated 1 July 2015, the Australian domiciled Carmichael Rail Pty Ltd and Carmichael Rail Network Pty Ltd as trustee for the Carmichael Rail Network Trust are the “proponents of the Carmichael Rail Project.”<sup>1</sup>
3. On 20 October 2016, during the sitting of the Australian government’s Economics Legislation Committee, resources minister Senator Matt Canavan was involved in answering a question about ‘specific potential proponents’ regarding NAIF funding for the Carmichael rail project. The government revealed that NAIF was in discussions with ‘Adani Australia’.<sup>2</sup>
4. Adani Enterprises Ltd published a letter dated 8 December 2016 on the Bombay Stock Exchange platform that stated:<sup>3</sup>

“With reference to recent news item titled “Adani now has all approvals for \$16bn mine in Australia”, the approval stated in the news item relates to the construction of a portion of the rail line and workers’ camp of the North Galilee Basin Rail Project (the ‘Rail Project’). The Rail Project is not part of the Adani Enterprises Ltd group, hence, is not required to be reported.”

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<sup>1</sup> Carmichael Rail Pty Ltd (2015) Special Purpose Financial Report, p1

<sup>2</sup> Economic Legislation Committee, Answers to Questions on Notice; Industry, Innovation and Science Portfolio, 2016-2017 Supplementary Budget Estimates, 20 October 2016, Question SI-35 from Senator Larissa Waters.

<sup>3</sup> [http://corporates.bseindia.com/xml-data/corpfiling/AttachHis/82A69C69\\_E6D8\\_4F61\\_8356\\_6A74DE960812\\_145512.pdf](http://corporates.bseindia.com/xml-data/corpfiling/AttachHis/82A69C69_E6D8_4F61_8356_6A74DE960812_145512.pdf)

5. On 21 December 2016 the Australian Broadcasting Corporation, Australia's national broadcaster, reported on Carmichael Rail Pty Ltd and the Carmichael Rail Network Trust:

"Adani has created four companies and two trusts in Australia for the rail project.

The parent company for all these entities is Carmichael Rail and Port Singapore Holdings Pte Ltd, a company registered in Singapore where the corporate tax rate is 15 per cent.

This Singapore parent company is in turn owned by Atulya Resources Ltd, a private company controlled by the Adani family and based in the Cayman Islands."<sup>4</sup>

6. A 13 March 2017 Reuters article *Adani Enterprises applies to Aus govt fund for coal mine railway financing* stated:<sup>5</sup>

"India's Adani Enterprises has applied for financing from an Australian infrastructure fund to build a rail line that is part of a \$16 billion coal project in the state of Queensland, Australia's resources minister said on Monday."

7. On 14 March 2017 the corporate structure for the rail project was described as 'a classic third-world pyramid structure'. The statement was made by an expert in corporate governance from the University of Technology of Sydney, Dr Clarke, and published by the Australian Broadcasting Corporation.<sup>6</sup>

8. On 16 March 2017, the *Australian Financial Review*, Australia's premier financial newspaper, discussed the rail project and NAIF support in the article *Aurizon returns to the Galilee Basin with Northern Infrastructure Fund plan*.

"The Carmichael coal complex, which has most recently been described as a \$22 billion investment, includes plans for six open cut and five underground mines and cannot happen without the construction of a 390-kilometre railway to connect what would eventually be Australia's biggest single coal operation with the Adani-owned coal terminal at Abbot Point in North Queensland.

...

But whatever the phasing, the mining part of the project would be built by the Indian-listed entity that is Adani Group. But the coal terminal and the rail development company are owned directly by Gautam Adani. In other words, Adani's shareholders will own the commodity price risk while the man himself will own the two pieces of the infrastructure puzzle that will clip the ticket.

Delivering state funding to that sort of arrangement seems a hard one to justify. We have discussed our views on this one with Canavan."<sup>7</sup>

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<sup>4</sup> <http://www.abc.net.au/news/2016-12-21/adani-corporate-web-spreads-to-tax-havens/8135700>

<sup>5</sup> <http://in.reuters.com/article/adani-ent-australia-idINKBN16K0M3>

<sup>6</sup> <http://www.abc.net.au/news/2017-03-14/adani-carmichael-coalmine-to-shift-millions-to-cayman-islands/8350704?pfmredir=sm>

<sup>7</sup> <http://www.afr.com/business/energy/aurizon-returns-to-the-galilee-basin-with-northern-infrastructure-fund-plan-20170315-guys3y>

9. The matter is of significant public interest in Australia. NAIF has refused Freedom of Information requests from EJA which would disclose the identity of the applicant. NAIF's refusal has been referred to the Office of Australian Information Commissioner.
10. NAIF's board of directors must, amongst other things, have regard to best practice governance principles when making its loans.<sup>8</sup> NAIF's directors must expect to be repaid by the project proponent.<sup>9</sup> Also, NAIF must ensure the project is for the public benefit, and it can lend money only if the project would not otherwise proceed.<sup>10</sup> However an Adani representative stated that NAIF funding was 'not critical' and was not necessarily 'make or break' for the rail project.<sup>11</sup> The identity of the particular Adani entity responsible for those comments was not clear.
11. In addition, under Australian law, NAIF must maintain an appropriate system of risk oversight.<sup>12</sup> It is bound by the Commonwealth Government Department of Finance Risk Management Policy that requires accountability and responsibility for the management of risk that extends across other jurisdictions.<sup>13</sup>
12. NAIF is, in our view, far less likely to provide financial support for a project if the application for support was not made by a publicly listed company like Adani Enterprises Ltd with detailed public accounts. The risk profile of the project increases dramatically if the applicant is ultimately owned by a private company domiciled in the Cayman Islands.
13. The potential NAIF funding for the rail project is material information for Adani Enterprises Ltd. India's Economic Times reported the share price impact of Senator Canavan's statement to Reuters about NAIF on 14 March 2017 in the article *Adani Enterprises climbs 4% as firm applies for loan for \$16 bn coal project*.<sup>14</sup>

"Shares of Adani Enterprises shot up over 4 per cent in Tuesday's trade after Australia's Resource Minister on Monday said the company had applied for financing from an Australian infrastructure fund to build a rail line that is part of a \$16 billion coal project in Queensland."
14. Adani Enterprises Ltd, it seems, has failed to disclose or clarify the identity of the applicant for NAIF support of the Carmichael rail line. In our view this is material, price sensitive information and must be disclosed. If the true identity of the loan applicant remains unknown investors are at risk of being misled.

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<sup>8</sup> Section 17, NAIF Investment Mandate Direction 2016:

<https://www.legislation.gov.au/Details/F2016L00654>

<sup>9</sup> Section 7, NAIF Investment Mandate Direction 2016

<sup>10</sup> Section 7, Mandatory Criterion 3, NAIF Investment Mandate Direction 2016

<sup>11</sup> <http://www.smh.com.au/federal-politics/political-news/its-not-critical-adani-says-it-doesnt-even-need-controversial-1-billion-government-loan-20161205-gt425r.html>

<sup>12</sup> Section 16, Public Governance, Performance and Accountability Act 2013 (Cth):

<https://www.legislation.gov.au/Details/C2016C00414>

<sup>13</sup> Section 20 of the Australian Government Commonwealth Risk Management Policy:

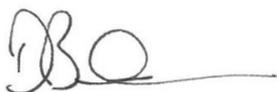
<https://www.finance.gov.au/sites/default/files/commonwealth-risk-management-policy.pdf>

<sup>14</sup> <http://economictimes.indiatimes.com/markets/stocks/news/adani-enterprises-climbs-4-as-firm-applies-for-loan-for-16-bn-coal-project/articleshow/57625705.cms>

15. We kindly ask the Bombay Stock Exchange to seek clarification from Adani Enterprises Ltd under the *Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulation, 2015* as to the precise identity of the corporate applicant for NAIF funding of the Carmichael rail project.

Please let us know if you require further information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'DBO', with a horizontal line extending to the right.

**David Barnden**  
**Lawyer**  
**ENVIRONMENTAL JUSTICE AUSTRALIA**