

25 August 2020

The Hon Leeanne Enoch
Minister for Environment and the Great Barrier Reef,
Minister for Science and Minister for the Arts
GPO Box 5078
BRISBANE QLD 4001

By email: environment@ministerial.qld.gov.au

Dear Minister Enoch

Re: Urgent need for amendments to the Environmental Protection Act 1994 to allow for appropriate scrutiny of environmental offences in foreign jurisdictions

We write to raise our concerns with you that, to date, there has been a failure under the *Environmental Protection Act 1994* ('EP Act') to properly scrutinise environmental offences relevant to Adani Mining Pty Ltd. The failure is due to the EP Act failing to scrutinise environmental offences which occur in foreign jurisdictions.

Our legal research on publicly reported findings by courts in foreign jurisdictions shows that the Adani Group has a well-documented history of failing to comply with the law, with serious consequences for people and the environment.¹ We note that the recent reports² of allegations brought by community members and filed in the Jharkhand High Court against an Adani Group company operating in Godda should be of interest to the Queensland Government, and is a further concerning allegation which highlights the need to fix this serious flaw in the EP Act.

The **attached** Briefing Note details publicly available information about the existing record of failure to comply with Australian laws that are relevant to any investigation of Adani Mining Pty Ltd's suitability to be a registered suitable

¹ Environmental Justice Australia, *The Adani Brief: what governments and financiers need to know about the Adani Group's record overseas* (2017) and *The Adani Brief Update* (2019) (<https://www.envirojustice.org.au/the-adani-brief/>) (accessed 25 August 2020).

² Stephen Long, *Adani power plant and coal plans threatened by land owner court action* (ABC News, 10 July 2020) (<https://www.abc.net.au/news/2020-07-10/adani-godda-power-plant-threatened-by-land-owner-court-action/12439624>) (accessed 25 August 2020); Chitragada Choudhury, *Adivasi, Dalit Villagers file suit in Jharkhand High Court against Land Acquisition for Adani Power Plant* (IndiaSpend, 12 February 2019). (<https://www.indiaspend.com/adivasi-dalit-villagers-file-suit-in-jharkhand-high-court-against-land-acquisition-for-adani-power-plant/>) (accessed 25 August 2020).

operator. It also details several concerning breaches of the law in overseas jurisdictions which, with the appropriate change to the EP Act, should be closely scrutinised in an investigation of whether Adani Mining Pty Ltd's suitable operator registration should be cancelled.

We ask that you urgently take steps to remedy this serious gap in Queensland's environmental law. This gap in the law means that currently Adani Mining Pty Ltd has faced no scrutiny for the Adani Group's track-record of failure to comply with the law in jurisdictions outside of Australia. Following that, we ask that the chief executive of the Queensland Department of Environment and Science investigate whether Adani Mining Pty Ltd is suitable to be a registered suitable operator.

A 2017 report on corruption risks in mining approvals by Transparency International Australia highlighted this serious flaw in Queensland's laws, stating that it 'creates a risk that mining leases will be granted to operators with a history of non-compliance.'³ The report warned that lack of investigation of a proponent's environmental record "in jurisdictions outside Australia can lead to proponents with a record of environmental offences operating large mining projects in Australia. This can be of significant concern when large mining projects are operating in areas where there are risks of impacts to ecology, biodiversity or water resource."⁴ In our view, this concern is directly applicable to Adani Mining Pty Ltd's operation of the Carmichael coal mine, for the reasons outlined in our attached Briefing Note.

We would welcome the opportunity to discuss this matter with you further, at your convenience.

Yours sincerely,



Ariane Wilkinson
Senior Lawyer

Attachment: Briefing Note – "Suitable Scrutiny - Queensland's environmental law must be fixed so that there can be proper scrutiny of Adani Mining Pty Ltd's suitable operator status."

³ Transparency International Australia, 'Corruption Risks: Mining Approval in Australia' (October 2017) <<https://transparency.org.au/wp-content/uploads/2019/10/Australia-Report.pdf>> (Accessed 25 August 2020), page 28.

⁴ Ibid. page 31