

Submission to the senate enquiry into the governance and operation of the Northern Australia Infrastructure Facility (NAIF)

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Healthy planet, **healthy people.**

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Doctors for the Environment Australia (DEA) is an independent, self-funded, non-governmental organisation of medical doctors in all Australian States and Territories. Our members work across all specialties in community, hospital and private practice. We work to minimise the public health impacts and address the diseases caused by damage to our natural environment.

Terms of reference

- a. *the adequacy and transparency of the NAIF's governance framework, including its project assessment and approval processes;*
- b. *the adequacy of the NAIF's Investment Mandate, risk appetite statement and public interest test in guiding decisions of the NAIF Board;*
- c. *processes used to appoint NAIF Board members, including assessment of potential conflicts of interest;*
- d. *the transparency of the NAIF's policies in managing perceived, actual or potential conflicts of interest of its Board members;*
- e. *the adequacy of the Northern Australia Infrastructure Facility Act 2016 and Investment Mandate to provide for and maintain the independence of decisions of the Board;*
- f. *the status and role of state and territory governments under the NAIF, including any agreements between states and territories and the Federal Government;*
- g. *and any other related matters.*

Recommendations

1. The NAIF adopts the World Health Organization's (WHO) recommendation of '*Health in all Policies*'.
2. All decisions made by the NAIF should include a transparent evaluation of the health and environmental impacts of the project.
3. The NAIF considers Australia's international responsibilities to the *Paris Agreement* when considering projects.

4. Detail on the process of assessing and approving projects to be made publicly available.
5. Increased transparency of decision making, especially in assessing and approving projects.
6. The definition of 'public benefit' be broadened to include short and long-term effects on health, social and community functioning and the environment.
7. Independent cost benefit analysis of potential projects is carried out and made publicly available, taking into account short and long-term impacts on health, social and community functioning and the environment.
8. Consideration and disclosure of climate change risk when assessing projects.
9. Indigenous Engagement Strategy to be made public.
10. Transparent processes used to appoint board members.
11. The expertise of board members to be broadened, in order to include individuals with expertise in disciplines such as agriculture, education, health, research and renewable energy.
12. Transparent processes for dealing with conflict of interest, ensuring that board members that stand to gain personally from certain projects are removed from decisions and influence regarding that particular project.

Introduction

Since forming in 2001, DEA has been guided by our vision '*Healthy planet, healthy people*'. DEA uses compelling scientific evidence to demonstrate the important health benefits of clean air and water, biodiverse natural places, stable climates and sustainable health care systems. Of necessity, we address climate change because its major impact is directed at the health of the planet and its inhabitants. This includes injury, death and displacement and long-term health problems of individuals and communities from the effects of extreme weather events such as heatwaves, cyclones, flooding and fires. Northern Australia has experienced a number of such events over the past few decades and climate modelling shows that these will increase.

NAIF has responsibility to ensure that the effects of climate change are reduced to a minimum through its investment decisions. In this regard, we remind the NAIF that WHO considers climate change amongst the biggest health threats of this century.

Health in all Policies

DEA recommends the NAIF adopt the WHO's recommendation of '*Health in all Policies*', as all policy decisions have implications for human health². We note that health is mentioned infrequently in the 200-page White Paper. In this brief submission, we seek to draw attention to the need for an understanding of health implications to be included in the Committee's deliberations. The '*Health in all Policies*' approach seeks to ensure that public policy making across all sectors systematically takes into account the health implications of decisions, seeks synergies, and avoids harmful effects on health.

In the White Paper, the only significant mention of health is in relation to the development of tropical medicine expertise from expanded university activities (page 71). This is laudable in itself but it fails to recognise that a significant proportion of the world's disease burden has environmental causes and progress fits into the preventative health category. This presents difficulties for the NAIF for not only is its guiding paper deficient but there is no evidence its Board has any health expertise to apply health in all policies to the land north of the Tropic of Capricorn nor to the requirements of our international neighbours.

DEA recognises the great opportunity and a very significant responsibility for the NAIF and its Board-to provide guidance and investment in projects that will be sustainable in the long term – not just for the term of a particular government or even for a generation but for all time. We must develop Northern Australia in an environmentally sensitive way acknowledging that the land is already some of the most fragile on the planet and need to ensure that investment does not harm the environment.

This DEA submission will make some general comments in relation to the significant responsibilities that the NAIF and in particular the Board have to ensure that any funding decisions recommended by the Board contribute to the vision that is articulated in the document '*Our North, Our Future: White Paper on Developing Northern Australia*'³.

It is also very important that the NAIF also takes into account our responsibilities to various international agreements such as the *Paris Agreement*. This would seem consistent with the paragraph in the White Paper – P 3 "*The north will be an exemplar of sustainable development. The development of major population centres of more than a million people will underwrite substantial exports of planning, design, architecture and construction to the Tropics*".

It is evident therefore that all decisions made by the NAIF should include a transparent evaluation of the health and environmental impacts of all policies and projects.

To date, much of the available evidence of how NAIF will operate relates to the Adani Carmichael coal mine. Subsequent sections of this submission will draw attention to the available public evidence on this topic using our health and environmental expertise.

Our credentials to make informed comment on the Adani proposal are evidenced by several Parliamentary submissions:

Carmichael Coal Mine and Rail Project Draft TOR for an EIS

https://www.dea.org.au/wp-content/uploads/Carmichael_submission.pdf

Carmichael Coal Mine and Rail Project Environmental Impact Statement

https://www.dea.org.au/wp-content/uploads/Carmichael_Coal_Mine_and_Rail_Project_Submission_02-13.pdf

Adani - Abbot Point Coal Terminal 0 EIS

https://www.dea.org.au/wp-content/uploads/Adani_Abbot_Point_Coal_Terminal_0_Submission_04-13.pdf

Carmichael Coal Mine and Rail Project EIS and Supplementary EIS

https://www.dea.org.au/wp-content/uploads/Carmichael_Coal_Mine_and_Rail_Project_SEIS_Submission_12-13.pdf

Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs (pages 5-6)

<https://www.dea.org.au/wp-content/uploads/2017/03/Certain-Aspects-of-QLD-Government-Administration-Submission-11-14.pdf>

Term of Reference

a. the adequacy and transparency of the NAIF's governance framework, including its project assessment and approval processes;

A review of the Application process for the NAIF reveals a lack of detail on application and assessment and does not outline timelines nor explain in detail how the NAIF makes decisions about assessing proposals. This seems very lax for a Fund that has such a significant portfolio of investment to manage –not only for the government but for all Australians.

We are concerned to find that in the case of the Adani Carmichael project the NAIF was assessing and progressing the applications well before it had detailed policies for assessment. For example, we understand that the application for the Adani Carmichael coal and rail project was announced in December 2016, with extensive reportage of progress in consideration of its application - yet the policy statements outlining the

NAIF governance framework are all dated June 2017⁴. Key policies, including those required by law, have only recently been finalised.

It is concerning that the NAIF has refused to disclose information about specific project proponents, including their identity. Despite this, the government has loudly promoted the Adani Carmichael project, even while the NAIF refused to say if their application existed. This seems to suggest that the 'transparency of decision making' of NAIF – so important when dealing with their standing to deploy public monies - are certainly not adequate and need to be tightened.

Term of Reference

b. The adequacy of the NAIF investment mandate, risk appetite statement and public interest test in guiding decisions of the NAIF Board.

DEA suggests that the definition of 'public benefit' in the mandatory criteria used by the NAIF is vague:

In considering public benefit, the Board will give preference to those Projects that will:

- 1. serve or have the capacity to serve multiple users; and*
- 2. produce benefits to the broader economy and community beyond those able to be captured by Project Proponents.*

This definition of 'public benefit' is too narrow and risks missing substantial public concerns with projects, as well as long term effects on health and environment and their costs– which are essential in assessing whether a project has true net public benefit. We suggest this criterion be expanded to include assessment of the potential long- and short-term health and environmental risks of projects. Where there is controversy about the public benefit of a particular project there needs to be independent analysis taking into account the economic, social, health, environmental and community effects of the proposed project.

DEA would like to highlight that the NAIF is risking accepting at face value approvals granted by the Queensland government when there is accumulating expert and legal evidence in Court judgements that many approvals are flawed in relation to the health and environmental assessments of coal and unconventional gas projects, for example the New Acland Mine⁵.

Taking this failure into account we are concerned that the current cost benefit analysis guidelines⁶ for projects >\$50 million are also vague and

there is no requirement for consideration of long term impacts on health, social and community function, or environmental effects. We note that the cost benefit analysis of major projects are also not publicly available.

Such cumulative impacts are best assessed by full cost benefit analysis. The Queensland Department of State Development Project Assurance Framework⁷ is explicit in its requirement of cost benefit analysis "The primary method of economic evaluation of public sector policies and projects is cost-benefit analysis... Cost-benefit analysis generally assesses the impact of a project on the economic welfare of the community, and is therefore a key element in any public sector [economic] analysis"⁷. A more detailed explanation of this need is explained on page 9 of DEA's New Acland Stage 3 submission⁸.

It is also clear that cost benefit analysis should be applied to the gain/loss account for our entire nation, for there is opinion that the Adani Carmichael development may impair existing economic activity in another state⁹.

Whilst it is apparent that full cost accounting is needed for the entire Adani Carmichael project it is even more vital for the NAIF's direct responsibilities over the potential \$900million-\$1 billion NAIF loan to the Adani Carmichael coal mine and rail project. It is not apparent from existing information that this has public benefit.

Concerns are raised in a number of following areas:

Job creation

There are widely differing predictions – ranging from 10,000 (Qld Premier and Adani company^{10,11}) to 1,464 (Adani's economic expert Dr Fahrer in Qld Land Court hearing¹²) to predictions of jobs actually being lost elsewhere in Australia (Wood Mackenzie analysis¹³). With such a substantial loan, consideration needs to be also made about the amount of jobs that could be created in other industries with the same amount of money, for example job creation in the renewable energy industry.

Climate Change Risk

DEA notes that the Risk Appetite statement has not been made public, despite being requested by the Senate in a formal Order for the Production of Documents. We note the importance of assessing and disclosing climate risk in any consideration of risk. The Australian Prudential Regulation Authority's (APRA) Geoff Summerhayes outlined financial institutions' obligations to do this, and also noted that this includes physical risks and transition risks - i.e. the risk of stranded assets in a world that is transitioning towards renewable energy. It is also noted in this statement that there are potential legal implications for institutions that fail to consider climate risk¹⁴.

DEA also points out the climate change risk for the Adani proposal and loan has local risks to the project from projected climate change impact in Queensland and international risk as legal actions in the USA in particular, increase against those failing to reduce emissions thus increasing the risk of stranded assets as the world moves away from fossil fuel usage.

Climate change is already having devastating effects on the Great Barrier Reef, which supports an estimated 69,000 jobs. Scientific advice is that protecting the Reef from further damage requires rapid phasing out of fossil fuels globally¹⁵. The NAIF needs to indicate it is aware of these considerations. The fact that the mining and burning of coal from this project is likely to generate an estimated 4.7 billion tonnes of greenhouse gas emissions is highly relevant. This will be more than 0.5% of the remaining global carbon budget for limiting warming to 2°C.

Health impacts

Based on documented evidence we believe the Queensland government has shown it is incapable of monitoring and imposing appropriate health and environmental conditions in a wide range of resource development, CSG wells, health monitoring of coal workers, and coal gasification to mention a few. The recent Land Court judgement on the New Acland Coal Mine¹⁶ illustrates these deficiencies which in the case of the Acland mine exposed communities to several health hazards.

The Independent Expert Scientific Committee (IESC) established by the federal government provides vital expert assessment of water resources for developments and its assessments on Adani^{17, 18} were that there were too many unknowns from modelling to make recommendations. Subsequently the Queensland government did more modelling and appointed its own expert who contested the IESC opinion. This was totally inappropriate. It was clear that the Queensland government was acting as proponent whereas its role should be arbiter.^{19, 20}

Such actions carry significant risks to human health and to agriculture for subsequently the Adani Carmichael project was granted a licence for the use of 12 ML (megalitres) from local river systems in a region susceptible to drought. It was also granted unlimited groundwater use, drawn from the Great Artesian Basin and the law was changed to allow this²¹.

We would conclude that NAIF would be wise not to rely on the safety of assessments made for the Adani project and it needs to take into account this problem in its analysis of other projects. This provides additional evidence for the Board of NAIF to have wider expertise in its membership as well as access to independent experts.

DEA has produced a fact sheet on the health aspects of the Adani proposal headed by distinguished Australian scientist Professor Fiona Stanley AC and based on the medical and scientific literature²².

Risk due to standing of the proponent

We note that a comprehensive investigation by Environmental Justice Australia and United States-based environmental law non-profit EarthJustice has recently been published^{23,24} and provides a litany of stories of pollution, failed clean-ups of damaged environments, and allegations of corruption and of abuse of workers. They also expose extraordinarily findings from their international investigation into the global legal compliance record of the Adani Group. DEA does not have the expertise to judge these claims but we believe their veracity needs to be considered by the NAIF for they may come to affect the standing of their decisions on the project.

Aboriginal land rights

Given the importance of Indigenous communities in Northern Australia and their ongoing connection to their land for thousands of years, it is somewhat surprising that the Indigenous Engagement Strategy has not been made public, making the terms of Indigenous engagement with the potential of the NAIF impossible to gauge.

Term of Reference

c. Processes used to appoint NAIF Board Members, including assessments of conflicts of interest.

The processes used to appoint board members needs to be transparent – currently there is no publicly available information of this nature. Given the major focus of the NAIF on funding large infrastructure projects it is natural that current expertise seems to focus on investment and legal issues. However, the current board members experiences’ appear to be weighted towards resource extraction, despite the diversified vision of development outlined in the White Paper:

- food and agriculture
- resource and energy
- tourism and hospitality
- international education
- health care, medical research and aged care

It seems important to broaden the expertise of the Board to include individuals who have expertise in disciplines other than mining and fossil fuels such as communications, agriculture, transport, education, health, research and renewable energy. DEA has already pointed out that health and environmental expertise is vital. In this light it is unfortunate that

there is no requirement in the *NAIF Act* for the Minister responsible for oversight of the NAIF to consider the need for broad experience.

Food and agriculture

Clearly the further development of this existing industry is vital for the provision of food resources to Australia and to the world. The inter-relationships with the food industry, human health and sustainable agriculture are complex and will require the NAIF to have expert advice if rational decisions are to be made. We recommend the approach used by DEA in our paper²⁵.

Resources and Energy

The opportunities for Northern Australia to develop innovative renewable energy sources using solar, wind and water are enormous and already being discussed, for example, the proposal to build one of the world's largest lithium battery factories in Townsville. This development would lead to a \$US1.6 billion (\$2.1bn) factory in Townsville by 2020 with creation of significant numbers of jobs²⁶.

We would hope that all Board members are able to look to the future and explore technologies/resources investments that have minimal impact on the environment. The opportunity for renewable energy generation in Northern Australia is an enormous opportunity to invest in not just the future of Australia but of the world and we urge the NAIF to rise to that challenge.

The NAIF board will be aware of the huge health implications in energy policy and that pollution from combustion of fossil fuels is responsible for 3,000 deaths pa in Australia. We request that you take this suffering and cost to health services into account in all your deliberations. Health aspects of energy development are reviewed in DEA's Future Security of the National Electricity Market submission²⁷.

Health care, medical research and aged care

DEA has already referred to what we see as deficiencies in the White Paper which should be corrected in the work of the NAIF. We point out that the development of treatments for tropical diseases is relevant and we support the concept, the main need of the developing world and many of our neighbours lies in the preventative and deliver aspects. These are not mentioned. The NAIF must attract balanced expert advice on this issue.

Term of Reference

d. The transparency of the NAIF's policies in managing perceived, actual or potential conflicts of interest of its Board members;

DEA has largely covered this under (c.) but would suggest that some of the current Board members will be conflicted on the Adani decision and have already made their position known before assessments are available. For example, Sharon Warburton and Karla Way-McPhail hold other positions that raise the prospect of direct conflicts of interest with NAIF project assessments. Way-McPhail has already publicly responded to concerns about conflicts of interest by saying the Adani project is "vital"²⁸.

While the NAIF finally published a policy for conflicts of interest in June 2017, it is not clear how the demonstrated conflicts of some Board members in relation to Adani's application is being handled.

Term of Reference

e. The adequacy of the Northern Australia Infrastructure Facility Act 2016 and Investment Mandate to provide for and maintain the independence of decisions of the Board;

Unfortunately, the Minister responsible for the NAIF has already undermined the independence of the Board and its deliberations via his sustained promotion of Adani and his public endorsement of their NAIF application.

It seems extraordinary that the Adani application has been unfailingly promoted by the Federal Government, the interventions of Gautam Adani to influence law reforms, the declared view of some NAIF Board members - all point to the problems of how the NAIF is being administered.

NAIF has continued to assess the Adani proposal despite Adani themselves saying they didn't need the loan²⁹ - which would disqualify them as an applicant under the mandatory criteria of the Investment Mandate. This raises questions about the independence of NAIF's assessment processes.

References

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- ³ Australian Government. Our North, Our Future: White Paper on Developing Northern Australia <http://northernaustralia.gov.au/files/files/NAWP-FullReport.pdf>
- ⁴ <http://www.naif.gov.au/about-us/naif-governance/>
- ⁵ <http://www.edoqld.org.au/case-update-acland/>
- ⁶ <https://naif-gov-au.industry.slicedtech.com.au/wp-content/uploads/2016/08/Public-Benefit-Guideline-27.6.2017-for-web.pdf>
- ⁷ Qld DIP. (2011). Project Assurance Framework: Cost Benefit Analysis. *Analysis*. Queensland Department of Infrastructure and Planning. Retrieved from <http://www.treasury.qld.gov.au/office/knowledge/docs/project-assurance-framework-guidelines/paf-cost-benefit-analysis.pdf>
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- ¹⁶ <http://www.edoqld.org.au/case-update-acland/>
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