



**AUSTRALIAN  
CONSERVATION  
FOUNDATION**

# Dirty deeds

Done for cheap dirt

19 May 2017

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# Executive summary

In this report the Australian Conservation Foundation (ACF) investigates the federal government's Northern Australia Infrastructure Facility and its assessment of a billion-dollar loan application for a railway line to prop up Adani Mining's Carmichael coal mine.

ACF has worked with journalist Michael West to investigate whether political will and fossil fuel connections are conspiring to put \$1 billion of Australian public money at risk for a climate-wrecking project with questionable financial prospects.

This report raises serious questions about the influence of big polluting companies on decision makers. Ultimately, we are asking: **is our federal government providing a slush fund for big polluting companies and doing the business of big polluters?**

**In the report, we explore four specific questions in relation to dirty deeds:**

## 1. Risking public money

**Is the government planning to loan \$1 billion of public money that Australian citizens will never get back?**

The Coalition government established the Northern Australia Infrastructure Fund in 2016 to provide \$5 billion in discount loans for infrastructure projects to develop northern Australia. Once allocated to a project, the funding goes to the states – Queensland, Western Australia and the Northern Territory – and the states lend the money to the successful applicant.<sup>1</sup> It should provide the infrastructure for a thriving future in northern Australia.

At the same time the controversial Carmichael mine, which is being considered by the NAIF, seems to have strong political will in its favour; both the federal and Queensland governments have expressed strong support for the mine.

The Turnbull government has also promoted the idea that NAIF funds be deployed to subsidise

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<sup>1</sup> NAIF, *About us*, accessed 10/05/2017 <http://www.naif.gov.au/about-us/>

new coal-fired power stations. The Minister for Resources and Northern Australia, Senator Matthew Canavan, is on the record supporting NAIF investments in the railway and a coal-fired power plant for Queensland.<sup>2</sup>

So far only four proposals have been publicly identified in the final stages of consideration for NAIF funding.<sup>3</sup> Two of the four proposals are for a railway line from Adani's Carmichael coal mine in the Galilee Basin to the coast of Queensland.

The NAIF board has a fine needle to thread. The board is guided by an Investment Mandate that allows it scope to invest public money in high-risk projects, however it must also secure repayment of public funds.

The success of the railway line depends on the viability of the Carmichael mine, which is a high-risk project. Adani's financial modelling for the mine has been discredited and 22 banks globally have said they will not support the mine.<sup>4</sup> The thermal coal market is volatile at best, and some say it's in structural decline.

Based on the evidence outlined in this report, it is not difficult to conclude that NAIF would be taking unreasonable risks with public money were it to approve funding for the Carmichael railway.

## 2. Web of influence

**Do the people in charge of \$5 billion in public money have the diverse backgrounds and the expertise to help create the future northern Australians want? Could they be unduly influenced by their professional backgrounds and contacts?**

The government appointed the seven NAIF Board directors and empowered them to make decisions in the interests of the people of northern Australia about spending \$5 billion in public money.

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<sup>2</sup> The Australian, Turnbull taskforce to push coal-fired power for north, 4 Feb 2017, accessed 16 May 2017: <http://www.theaustralian.com.au/business/mining-energy/turnbull-taskforce-to-push-coalfired-power-for-north/news-story/e15cbb9f03c1922f909780ccbffd41cb>

<sup>3</sup> Senate Committee Hansard, Estimates: Thursday 2 March 2017, Page 185 accessed 17 May 2017, [http://www.aph.gov.au/~media/Committees/economics\\_ctte/estimates/add\\_1617/Hansard/OFFICIAL\\_EconomicsLegislationCommittee\\_2017\\_03\\_02\\_4806.pdf](http://www.aph.gov.au/~media/Committees/economics_ctte/estimates/add_1617/Hansard/OFFICIAL_EconomicsLegislationCommittee_2017_03_02_4806.pdf)

<sup>4</sup> Land Court of Queensland, *Adani Mining Pty Ltd v Land Services of Coast and Country Inc & Ors* [2015] QLC 48, 15 Dec 2015, accessed on 10 May 2017: <http://www.edoqld.org.au/wp-content/uploads/2015/11/mra428-14etc-adani.pdf>

The NAIF has a broad mandate to fund developments in northern Australia that include, but are not limited to, “rail, water, energy and communications networks, ports and airports.”

Our examination of the professional histories and backgrounds of the directors shows a board with more experience skewed towards mining rather than the diversified industries that are critical for the future of northern Australia.

The Board has relatively little expertise across industries such as communications, transport, education, research and clean renewable energy (northern Australia is home to some of Australia’s best renewable energy sources).

With its mandate to invest in all infrastructure, the NAIF should be looking at infrastructure projects that benefit a diversified economy and future for northern Australia.

It is not unreasonable to question whether the connections the board has to the fossil fuel industry, together with the strong public support for coal and Carmichael expressed by those in power, could be influencing their decisions of how to spend \$1 billion of public money.

### **3. Secrecy and flimsy criteria**

**Are the NAIF Board directors sitting on a pot of money to spend however they like, due to flimsy rules?**

Despite having \$5 billion to invest, the NAIF board is guided by vaguely worded Investment Mandate that leaves much room for discretion. The NAIF’s Investment Mandate makes just a cursory mention of the types of infrastructure to be funded. A project doesn’t even have to be “needed” to be approved; an “identified need for a project” is listed as non-mandatory criteria. The board does have to consider “public benefit”, which is vaguely defined as projects that benefit “the broader economy and the community”.

The Investment Mandate offers very little protection for Australia’s reefs, rivers, forests and wildlife, with the environment only receiving a passing mention.

What the Investment Mandate does show is that taxpayer concessions are generous, with longer loans and lower interest rates than those offered by commercial financiers, but checks and balances are weak. If a project fails, the Australian public may rank last in a wind-up – that is, they would stand behind other secured creditors – and would therefore be unlikely to be repaid at all.

Not only are NAIF processes lacking but they are also shrouded in secrecy with very little released to the public and not in a timely manner. Repeated efforts by ACF to contact the NAIF, and obtain information on the NAIF from the Minister, have come to nought.

There is a lack of transparency, with key documents such as a Risk Management Statement not being made public, and requests for information through Freedom of Information (FOI) and Senate Estimates yielding very little but highly redacted responses.

#### **4. Questionable advisers**

**Is the NAIF being advised by an agency with a track record of backing big coal, their very own connections to fossil fuel? Could this lead to more public money being wasted?**

The Export Finance and Insurance Corporation (Efic), Australia's official export credit agency, is providing support and advice to the NAIF.

Efic has a track record of investing in large fossil fuel projects, backing fossil fuels over renewables at a rate of more than 100:1 over the past 11 years, according to a 2014 analysis of Efic investments. The Efic Board also has connections to Adani and the coal mining industry.

Despite its small and medium-sized enterprise (SME) mandate, in 2014 more than three-quarters of the \$576.7 million worth of transactions signed by Efic went to just three parties: a Chilean company that runs the biggest copper mine in the world, a construction giant listed on the Johannesburg Stock Exchange and a billion-dollar Belgian smelting group.<sup>56</sup>

We have discovered that Efic could be used as a backdoor option to fund the Carmichael mine. The Efic legislation allows the Minister for Trade and Investment, Steven Ciobo, to approve an

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<sup>5</sup> Michael West, EFIC's capital deployed doing deals with multinationals, 2 Feb 2015, accessed 11 May 2017: <http://www.michaelwest.com.au/efics-capital-deployed-doing-deals-with-multinationals/>

<sup>6</sup> Resgen, Our Business: Boikarabelo Coal Mine, accessed 10 May 2017: <http://www.resgen.com.au/our-business/boikarabelo-mine>

insurance contract for an overseas transaction if it assists the development of a foreign country and is in the national interest.

The wording of the legislation allows considerable wriggle room, suggesting that only part of a transaction needs to be in the public interest.

We are asking Minister Ciobo to rule out Efic funding an onshore resource project. There has been no response from the Department or the Minister's Office, despite repeated approaches.

With significant public money on the line for a controversial and discredited project that will cause enormous damage to our climate and environment, these are legitimate questions that warrant answers.

## **Fossil fuel connections summary**

### **NAIF board**

Chairman Sharon Warburton is a veteran resources company director and on the board of Western Power, the state-owned electricity company which operates two coal-fired power plants.

Khory McCormick is a former senior partner with Minter Ellison in Brisbane which lists coal producers Rio Tinto and Macarthur Coal as clients. He is also a former chairman of Queensland electricity distribution network Energex.

Sally Pitkin is a former director of Efic and current Director Council of Economic Development of Australia, which hosted an event on behalf of Adani on March 31 where Jeyakumar Janakaraj, CEO and Country Head – Australia, Adani Mining, was keynote speaker.

Karla Way-McPhail has extensive coal industry connections and is founder and current CEO of Coal Train Australia which provides services to the coal sector.

Barry Coulter is a former Northern Territory Liberal National Party Minister for Mines and Energy and was chairman of Sherwin Iron Ore.

Justin Mannolini is a lawyer and resources company director.



Bill Shannon is a Queensland regional mayor who was once company secretary at Wormald International, a major supplier of services to the coal industry.

### **Efic Board**

Denise Goldsworthy is a former director of major coal miner Rio Tinto and member of the Minerals Research Institute of Western Australia.

Annabelle Chaplain is a director of Downer-Edi Ltd, the civil engineering firm which is Adani's mining contractor for the Carmichael mine. She is also a former director of Coal & Allied Industries.

### **Politicians**

Matthew Canavan is a Queensland Senator and Federal Minister for Resources and Northern Australia which includes responsibility for NAIF. Minister Canavan has been promoting the construction of coal fired power plants in Queensland, and has announced that coal projects are eligible to apply for NAIF funding.

Steven Ciobo is a Queensland Member of Parliament and Federal Minister for Trade, Tourism and Investment. Minister Ciobo, a coal advocate, is responsible for Efic and could choose to instruct Efic to provide loan insurance and guarantees to the Carmichael coal mine.

## **Introduction and background**

The purpose of the report is to evaluate whether the fossil fuel industry is likely to exert undue influence over Northern Australia Infrastructure Facility (NAIF) funding decisions. It also examines the NAIF Investment Mandate, the extent to which public money is at risk, and the background and connections of the NAIF Board of Directors.

We also examine the involvement of Australia's official export credit agency, the Export Finance and Insurance Corporation (Efic), with NAIF, and whether Efic may have a role in financing the

Carmichael coal mine.

The report raises some interesting questions about the influence of big polluting companies on decision makers. Ultimately, we are asking: **is our federal government providing a slush fund for big polluting companies and doing the business of big polluters?**

This report builds on the 2016 report released by The Australia Institute, in collaboration with ACF, *Greasing the Wheels*, which looked at the mining industry's influence on politics in Queensland. It also builds on ACF's *10 biggest climate polluters* reports released in March 2016 and March 2015.

It is based on a compilation and analysis of research conducted by investigative journalist Michael West who used a range of methods (including desk research, interviews and searches of ASIC corporate databases) to uncover new information. Our research also included desk-based research by ACF staff and Freedom of Information requests from multiple sources.

## The Carmichael coal mine and railway

The Carmichael coal mine, proposed by Adani Mining Pty Ltd, has attracted widespread opposition in Australia and internationally. If built it would be one of the largest coal mines in the world, producing 60 million tonnes of thermal coal per annum at peak production. This mine will have devastating effects on our air, water and wildlife. The climate pollution from the burning of the coal poses a great threat to the world-heritage listed Great Barrier Reef, as well as presenting direct impacts on groundwater, wildlife and the sacred sites of the local Wangan and Jagalingou people.

The Carmichael mine would be located in the Galilee Basin, a 247,000 square kilometre thermal coal basin in Queensland. There are currently nine coal mega-mines proposed for the Galilee Basin, which together make it the second biggest fossil fuel expansion proposed anywhere in the world. It is one of the largest untapped coal reserves on the planet.

To transport the coal out of Australia from its Carmichael mine site via a coal-loading facility at Abbot Point, Adani needs 310 km of railway line. Building this railway line will open up the Galilee basin, which must remain untapped to ensure the future of the Great Barrier Reef.

The federal and Queensland governments have expressed strong support for the mine. And

both levels of government have approved the mine. The Queensland government has also granted Adani an uncapped water licence that runs until 2077 and will enable the company to use 26 million litres of groundwater per day from the Galilee Basin.<sup>7</sup>

In November 2015 ACF filed a case to challenge the federal government's approval of this mega-mine. This case was dismissed on 29 August 2016. ACF went back to the Federal Court to appeal the ruling on 3 March 2017. We are currently awaiting the outcome of this appeal.

## Northern Australia Infrastructure Facility

One of the ways the federal government can support the mine is by providing \$1 billion in public funding from the NAIF for the railway. The Coalition government established this fund in 2016 to provide \$5 billion in discount loans for infrastructure projects to develop northern Australia. Once allocated to a project, the funding goes to the states – Queensland, Western Australia and the Northern Territory – and the states lend the money to the successful applicant.<sup>8</sup>

The Minister for Resources and Northern Australia, Senator Matthew Canavan, is responsible for the NAIF. Minister Canavan is responsible for “the appointment of the Board Members and issuing the NAIF Investment Mandate, as well as having accountability to the Australian Parliament.”<sup>9</sup> The Minister also has the power to reject a discount loan proposed by the board. He has up to 60 days in which to make his decision.<sup>10</sup>

### **The NAIF is led by a board of seven directors:**

- Ms Sharon Warburton, Chair (WA)
- Mr Khory McCormick (QLD)
- Dr Sally Pitkin (QLD)
- Ms Karla Way-McPhail (QLD)
- Mr Barry Coulter (NT)
- Mr Justin Mannolini (WA)
- Mr Bill Shannon (QLD)

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<sup>7</sup> Sydney Morning Herald, *'Barbaric': Farmers rattled as Adani coal mine granted unlimited water access*, 4 April 2017, accessed 10 May 2017: <http://www.smh.com.au/environment/barbaric-farmers-rattled-as-adani-coal-mine-granted-unlimited-water-access-20170404-gvdk5v.html>

<sup>8</sup> NAIF, *About us*, accessed 10 May 2017: <http://www.naif.gov.au/about-us/>

<sup>9</sup> NAIF, *About us*, accessed 17 May 2017: <http://www.naif.gov.au/about-us/naif-governance/>

<sup>10</sup> NAIF Investment Mandate Direction 2016, part 4:11, 2016, accessed 16 May 2017: <https://www.legislation.gov.au/Details/F2016L00654>

The NAIF Investment Mandate, which is set by the Minister, comprises the guidelines the board must follow when making decisions. It outlines mandatory and non-mandatory eligibility selection criteria that a project must satisfy.

The mandatory criteria cover public benefit, location and benefit to northern Australia, enhancement of economic infrastructure, demonstration of ability of the project to repay the loan, and at least 50 per cent of private funding allocated to the project. The non-mandatory criteria include there being “an identified need for the project”.<sup>11</sup>

So far only four proposals have been publicly identified in the final stages of consideration for NAIF funding.<sup>12</sup> Two of the four proposals are for a railway line from Adani's Carmichael coal mine in the Galilee Basin to the coast of Queensland.

The Turnbull government has also promoted the idea that NAIF funds be deployed to subsidise new coal-fired power stations. Senator Canavan is on the record supporting NAIF investments in the railway and a coal-fired power plant for Queensland.<sup>13</sup> But the NAIF has not confirmed it is or has been considering subsidising a coal-fired power plant.

One subsidised loan under consideration by the NAIF is the \$900 million rail proposal received in 2016 from Adani itself.<sup>14</sup> The second came in March 2017 from Aurizon, Australia's largest private freight rail operator, whose network already dominates the Queensland coal fields.<sup>15</sup> Details of both bids are scant. Aurizon's pitch is for concessional finance from the NAIF for a \$1.25 billion rail project.

The Adani rail project will be housed in a complex structure of four Adani companies and two trusts in Australia. Adani already operates port facilities at Abbot Point but it intends to construct a second terminal for Carmichael coal. The port expansion has a similar corporate structure to that of Adani's rail proposal; that is, five companies and two trusts in Australia, all

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<sup>11</sup> Australian Government, Northern Australia Infrastructure Facility Investment Mandate Direction 2016, 4 May 2016, accessed 10/05/17: <https://www.legislation.gov.au/Details/F2016L00654>

<sup>12</sup> Senate Committee Hansard, Estimates: Thursday 2 March 2017, Page 185 accessed 17 May 2017, [http://www.aph.gov.au/~media/Committees/economics\\_ctte/estimates/add\\_1617/Hansard/OFFICIAL\\_EconomicsLegislationCommittee\\_2017\\_03\\_02\\_4806.pdf](http://www.aph.gov.au/~media/Committees/economics_ctte/estimates/add_1617/Hansard/OFFICIAL_EconomicsLegislationCommittee_2017_03_02_4806.pdf)

<sup>13</sup> The Australian, Turnbull taskforce to push coal-fired power for north, 4 Feb 2017, accessed 16 May 2017: <http://www.theaustralian.com.au/business/mining-energy/turnbull-taskforce-to-push-coalfired-power-for-north/news-story/e15cbb9f03c1922f909780ccbffd41cb>

<sup>14</sup> ABC, Adani facing growing pressure on fears investors may have been misled, 22 Mar 2017, accessed 10 May 2017: <http://www.abc.net.au/news/2017-03-22/adani-facing-growing-pressure-investors-may-have-been-misled/8376794>

<sup>15</sup> Australian Financial Review, Aurizon returns to the Galilee Basin with Northern Infrastructure Fund plan, 15 Mar 2017, accessed 10 May 2017: <http://www.afr.com/business/energy/aurizon-returns-to-the-galilee-basin-with-northern-infrastructure-fund-plan-20170315-guys3y#ixzz4gctNljS6>

of which are ultimately controlled by Atulya Resources Limited in the Cayman Islands, a company privately controlled by the Adani family.<sup>16</sup>

Despite its substantial funds size and recent publicity, information about the NAIF processes is sparse and its governance appears highly questionable. It is not only lacking in robust governance policies but it is unclear what application and assessment processes are in place internally. This may be because, in Senator Canavan's words, "there is not really a formal submission or application process" but "discussions that occur."<sup>17</sup>

Not only are the processes lacking but they are also veiled in secrecy with very little released to the public and not in a timely manner. For example, the Board directors do not have to disclose their investment decisions until 30 days after making them<sup>18</sup>. And an Indigenous Engagement Strategy is mandatory under the legislation but we are not clear if that strategy exists or is complete as it is not publically available.<sup>19</sup>

All of this does little to provide confidence in a body charged with making decisions about significant public funds.

## Export Finance Investment Corporation (Efic)

The NAIF is being supported by the [Export Finance and Insurance Corporation \(Efic\)](#), Australia's official export credit agency, which is a government financier, as it insures and guarantees loans. Efic operates commercially, in partnership with banks, to provide financial loans that support Australia's export market, covering:

- Small and medium enterprises (SMEs) that are exporters
- Australian companies in an export supply chain
- Australian companies looking to expand their business operations overseas to better service their clients
- Australian companies operating in emerging and frontier markets<sup>20</sup>

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<sup>16</sup> ABC, Adani's Galilee Basin complex corporate web spreads to tax havens, 21 Dec 2016, accessed 10 May 2017: <http://www.abc.net.au/news/2016-12-21/adani-corporate-web-spreads-to-tax-havens/8135700>

<sup>17</sup> The Australia Institute, 'Political pressure risks \$5 billion fund becoming a barrel of pork', accessed 9/5/2017: <http://www.tai.org.au/content/political-pressure-risks-5-billion-infrastructure-fund-becoming-barrel-pork>

<sup>18</sup> <http://www.naif.gov.au/application-process/naif-investments/>

<sup>19</sup> <https://www.legislation.gov.au/Details/F2016L00654>

<sup>20</sup> Efic, About, accessed 10 May 2017: <https://www.efic.gov.au/about-efic/>

Efic is a Commonwealth government statutory corporation. Unlike the NAIF, which has a board that is independent by statute and has few restrictions in its Investment Mandate, Efic acts at the direction of the Government Minister and its investment process is more transparent. Its governance procedures are more conventional than those of the NAIF.

## Dirty deed 1: Risking public money

### Is the government planning to loan \$1 billion of public money that Australian citizens will never get back?

Under the NAIF Investment Mandate<sup>21</sup>, the Board has to balance getting public money back by ensuring its loans are repaid at the concessional Commonwealth Bond rate, and taking on projects that can't achieve commercial funding on their own without NAIF.

The Investment Mandate sets out that projects must be able to demonstrate ability to repay the debt in full and on time, or refinance (Mandatory Criteria 6), and that projects are unlikely to proceed, or will only proceed at a much later date, or with a limited scope, without financial assistance (Mandatory Criteria 3).

This is quite a narrow investment mandate for the NAIF directors to navigate. Adani appears to fit the second criteria of being unlikely to proceed without financial assistance. Although, interestingly, Adani initially said it did not necessarily need the finances, which would seemingly exclude it from meeting Mandatory Criteria 3.<sup>22</sup>

Building a railway line is one thing. Achieving the coal mining volumes to support and make the railway line bankable is entirely another matter.

Globally, twenty-two banks have said they will not support the Carmichael mine.<sup>23</sup> This list includes NAB, and most recently Westpac which has ruled it out, saying it will limit thermal

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<sup>21</sup> NAIF Investment Mandate Direction 2016, accessed 16 May 2017: <https://www.legislation.gov.au/Details/F2016L00654>

<sup>22</sup> Sydney Morning Herald, 'It's not critical': Adani says it doesn't even need controversial \$1 billion government loan, 5 December 2016, accessed 17 May 2017: <http://www.theaustralian.com.au/business/mining-energy/turnbull-taskforce-to-push-coalfired-power-for-north/news-story/e15cbb9f03c1922f909780ccbffd41cb>

<sup>23</sup> Market Forces, *The Adani List*, accessed 17 May 2017: <https://www.marketforces.org.au/theadanilist/>

coal lending to already producing basins.<sup>24</sup>

The Investment Mandate also allows the NAIF board scope to invest public money in potentially risky projects. Section 12(3) notes: “The Risk Appetite Statement may have a high-risk tolerance in relation to factors that are unique to investing in Northern Australia Economic Infrastructure as defined in the Act”.<sup>25</sup>

Carmichael is high risk; the seaborne thermal coal market is volatile at best, and some say it’s in structural decline<sup>26</sup>.

In a report issued late last month, the Institute for Energy Economics and Financial Analysis (IEEFA) said the risk of Adani’s Carmichael coal mine becoming a stranded asset had increased in the last 12 months.<sup>27</sup> The IEEFA analysis showed the project was likely to be “cash flow negative” for the majority of its operating life, even with concessional loans. It warned that Adani is not in a strong financial position. The value of Adani Enterprises is \$US1.9bn with a net debt of \$US2.5bn. The report also noted “shifts in Indian energy policy and pricing have materially increased the risk of Carmichael becoming a stranded asset.”<sup>28</sup>

Adani’s financial modelling was shot to pieces when the coal mine was challenged in the Queensland Land Court in 2015.<sup>29,30</sup> IEEFA’s Financial Analysis Director Tim Buckley said Adani had overestimated the coal price and the yield, using price forecasts in excess of \$US100Mt, and underestimated the cost of production, the cost of rail and the discount at which the coal would sell (as its coal quality is not high).<sup>31</sup> The evidence presented to the Land Court showed that rather than 10,000 jobs being created, as was claimed, 1,464 jobs would be created in each year.<sup>32</sup>

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<sup>24</sup> SBS, *Westpac coal refusal a blow for Adani*, 28 April 2017, accessed 9/5/2017:

<http://www.sbs.com.au/news/article/2017/04/28/westpac-coal-refusals-blow-adani>

<sup>25</sup> Australian Government, *Northern Australia Infrastructure Facility Investment Mandate Direction 2016*, 4 May 2016, accessed 10/05/17: <https://www.legislation.gov.au/Details/F2016L00654>

<sup>26</sup> The Australian, *Citi says thermal coal 'in structural decline'*, 29 May 2015, accessed 10 May 2017:

<http://www.theaustralian.com.au/business/business-spectator/citi-says-thermal-coal-in-structural-decline/news-story/7618262352efce7d5a6bf827e5228a61>

<sup>27</sup> IEEFA, *A Stranded Coal Asset in Australia*, 24 Apr 2017, accessed 10 May 2017: <http://ieefa.org/stranded-coal-asset-australia/>

<sup>28</sup> IEEFA, *Adani: Remote Prospects - Carmichael Status Update 2017*, Apr 2017, p.2, accessed 10 May 2017: [http://ieefa.org/wp-content/uploads/2017/04/Adani-Remote-Prospects-Carmichael-Status-Update-2017\\_April-2017\\_SN.pdf](http://ieefa.org/wp-content/uploads/2017/04/Adani-Remote-Prospects-Carmichael-Status-Update-2017_April-2017_SN.pdf)

<sup>29</sup> Land Court of Queensland, *Individual Expert Witness Report Financial and Market Analysis: Tim Buckley, Institute of Energy Economics and Financial Analysis (IEEFA)*, accessed 10 May 2017: <http://envlaw.com.au/wp-content/uploads/carmichael38.pdf>

<sup>30</sup> Land Court of Queensland, *Adani Mining Pty Ltd v Land Services of Coast and Country Inc & Ors* [2015] QLC 48, 15 Dec 2015, accessed on 10 May 2017: <http://www.edoqld.org.au/wp-content/uploads/2015/11/mra428-14etc-adani.pdf>

<sup>31</sup> Sydney Morning Herald, *'Adani gilded lily is far from rolled gold'*, 2 May 2015, accessed 9/5/2017:

<http://www.smh.com.au/business/comment-and-analysis/adani-gilded-lily-is-far-from-rolled-gold-20150430-1mxi3c.html>

<sup>32</sup> Land Court of Queensland, *Adani Mining Pty Ltd v Land Services of Coast and Country Inc & Ors* [2015] QLC 48, 15 Dec 2015, p.129, accessed on 10 May 2017: <http://www.edoqld.org.au/wp-content/uploads/2015/11/mra428-14etc-adani.pdf>

IEEFA recreated Adani's own financial model, used Adani's own numbers, and came up with a project that would lose \$9.4 billion, not generate \$22 billion in tax and royalties as Adani had claimed.<sup>33</sup>

The coal price reached its peak of \$US190Mt in 2008. By March 2016 it had collapsed to \$US53Mt rendering most coal mines in Australia unprofitable. It rallied again to hit \$US107Mt last November but has since dropped to \$US78Mt. The futures market price of Newcastle thermal coal is \$68.05Mt in June 2022. This indicates a market view which predicts thermal coal in structural decline.<sup>34</sup>

In discussions for this report, Buckley said Adani might not lose money if Carmichael coal was sold at \$US80Mt but would struggle to make a reasonable profit.<sup>35</sup> Recent reports suggest that the opening of the Adani coal mine would see forecast global prices plunge by as much as \$3.80 to just \$US65Mt making the project even less viable.<sup>36</sup>

Adani's proponents have claimed that the price of coal doesn't matter that much as this is a vertically-integrated enterprise.<sup>37</sup> That is, Adani is in control of the different levels of the supply chain and not selling the coal to third parties, just using it to fuel its own coal-fired power plants in India. However, Indian domestic coal production is on the rise, as is its ambitious diversification into renewables.<sup>38,39</sup>

As laid out in a report by The Australia Institute, *Don't be so NAIF*, numerous analysts doubt whether the Carmichael mine is viable without "unexpected and sustained high coal prices".

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<sup>33</sup> Land Court of Queensland, *Second Supplementary Individual Expert Witness Report: Financial and Market Analysis*, p.3, accessed 17 May 2017: <http://envlaw.com.au/wp-content/uploads/carmichael40.pdf>

<sup>34</sup> Tim Buckley, evidence to the Environment and Communications References Committee, 'Retirement of coal-fired power stations' Inquiry, Wednesday 22 February 2017, Senate Hansard, p.39-48: [http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Fcommsen%2Ff7902fba-8a4c-449d-8355-589e05e2f504%2F0006;page=5;query=\(Dataset%3Acommsen,commrep,commjnt,estimate,commbill%20SearchCategory\\_Phase%3Acommittees\)%20Decade%3A%222010s%22;rec=4](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Fcommsen%2Ff7902fba-8a4c-449d-8355-589e05e2f504%2F0006;page=5;query=(Dataset%3Acommsen,commrep,commjnt,estimate,commbill%20SearchCategory_Phase%3Acommittees)%20Decade%3A%222010s%22;rec=4)

<sup>35</sup> West, Michael, personal communication, March 2017

<sup>36</sup> ABC, *Adani's Carmichael mine will overload coal market, cause global prices to fall, report shows*, 9 May 2017, accessed 10 May 2017: <http://www.abc.net.au/news/2017-05-09/adanis-carmichael-mine-will-cause-global-coal-price-drop-report/8505564>

<sup>37</sup> The Australian, 'We're here for the long haul': Indian coal chief makes a stand, 12 September 2017, accessed 10 May 2017: <http://www.theaustralian.com.au/business/mining-energy/were-here-for-the-long-haul--indian-coal-chief-makes-a-stand/news-story/e91092c43b6a34eae06dc9c41ca199a8>

<sup>38</sup> Reuters, *Column - India cedes top coal importer spot back to China as growth trend stalls: Russell*, 30 Jan 2017, accessed 17 May 2017: <http://in.reuters.com/article/column-russell-coal-india-idINKBN15E0JH>

<sup>39</sup> The Guardian, *Josh Frydenberg says India's demand for Australian coal will increase*, 16 Feb 2016, accessed 10 May 2017: <https://www.theguardian.com/business/2016/feb/16/josh-frydenberg-says-indias-demand-for-australian-coal-will-increase>



These include BIS Shrapnel, UBS, and even Queensland Treasury.<sup>40+1424344</sup>

The NAIF directors may take the view that the downturn is cyclical rather than structural. However, the fact that the futures price for thermal coal is well below the current price is indicative of global market sentiment which suggests thermal coal is in structural rather than cyclical decline. Thermal coal has plenty of competition; namely solar, wind and hydro power generation.

Coal remains an enormous part of the Asian and global energy generation mix but renewables will continue to erode its market share. And Australia's major markets, China and India, are pursuing aggressive transitions to renewable energy.<sup>45</sup>

According to a recent report by Thomson Reuters Supply Chain and Commodity Forecasts, India's imports have been trending lower since the recent peak in June last year.<sup>46</sup>

India's domestic output of thermal coal is set to double by 2020, competing with seaborne imports, as is its roll out of solar projects.<sup>47</sup>

Meanwhile, the seaborne thermal coal market faces similar headwinds in China: slackening demand and an aggressive renewables policy.<sup>48</sup>

Even Japan, which has been slower than China and India on the renewables uptake and has invoked a commitment to "clean coal" and has recently reshaped its energy policy in favour of renewables.<sup>49</sup>

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<sup>40</sup> The Australia Institute, *Don't be so Naif*, 2017, p. 34, accessed 10 May 2017:

<http://www.tai.org.au/sites/default/files/P318%20Dont%20be%20so%20naif%20FINAL.pdf>

<sup>41</sup> ABC RN, *Does Adani's Carmichael Coal project stack up financially?*, 6 Dec 2016, accessed 17 May 2017:

<http://www.abc.net.au/radionational/programs/drive/adani-agrees-to-employ-local-workers/8097794>

<sup>42</sup> Reuters, *Adani steps up Australia coal plans ahead of Modi visit*, 12 Nov 2014 accessed 17 May 2017

<http://www.reuters.com/article/adani-ent-australia-coal-idUSL3NOT126820141112>

<sup>43</sup> Sydney Morning Herald, *Treasury doubts over Adani's Carmichael coal mine: 'It is unlikely to stack up'*, 1 July 2015, accessed 17 May 2017: <http://www.smh.com.au/business/mining-and-resources/treasury-doubts-over-adanis-carmichael-coal-mine-it-is-unlikely-to-stack-up-20150630-gj185y.html>

<sup>44</sup> 'Adani gilded lily is far from rolled gold', 2 May 2015, accessed 9/5/2017: <http://www.smh.com.au/business/comment-and-analysis/adani-gilded-lily-is-far-from-rolled-gold-20150430-1mxi3c.html>

<sup>45</sup> UNFCC, *China and India Lead Global Renewable Energy Transition: Allianz/ Germanwatch/ New Climate Institute Report*, 21 Apr 2017, accessed 10 May 2017: <http://newsroom.unfccc.int/climate-action/china-and-india-lead-global-renewable-energy-transition/>

<sup>46</sup> Reuters, *Coal India missing output target doesn't matter, mining millions of tonnes more does: Russell*, 16 March, 2017. Accessed 9/5/17: <http://www.reuters.com/article/us-column-russell-coal-india-idUSKBN16N0Z2>

<sup>47</sup> The Guardian, *Josh Frydenberg says India's demand for Australian coal will increase*, 16 Feb 2016, accessed 10 May 2017: <https://www.theguardian.com/business/2016/feb/16/josh-frydenberg-says-indias-demand-for-australian-coal-will-increase>

<sup>48</sup> ABC, *China's coal use likely peaked in 2013 amid rapid shift to renewables, global energy report says*, 17 Nov 2016, accessed 10 May 2017: <http://www.abc.net.au/news/2016-11-16/china27s-coal-use-peaked-in-20132c-report-says/8030428>

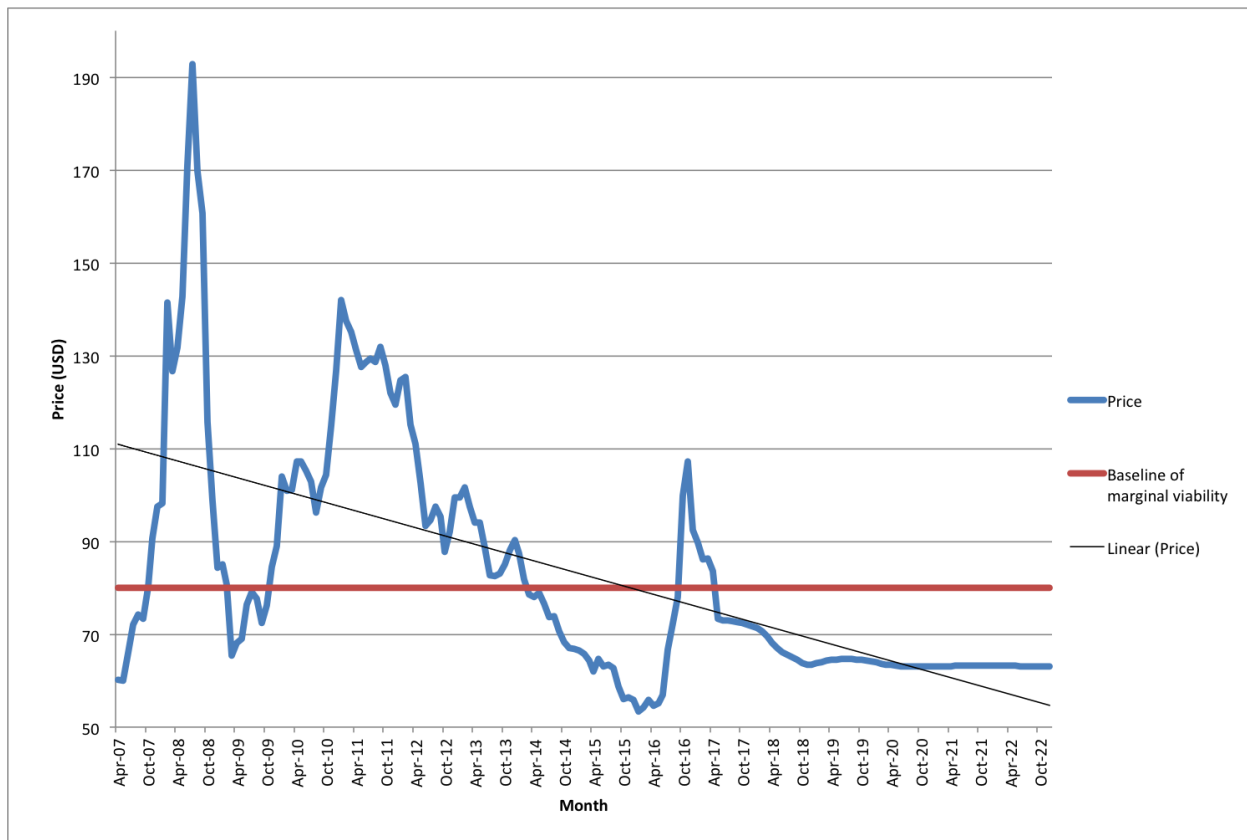
<sup>49</sup> Forbes, 'Japan's solar boom is accelerating', 23 January, 2017. Accessed 9/5/2017:

<https://www.forbes.com/sites/williampentland/2017/01/23/japans-solar-boom-is-accelerating/#52cb894232c9>

For the NAIF board to back the railway line, which is dependent on volumes from the mine, directors would have to take the view that the coal price is likely to drastically improve. Based on a realistic view of the prospects for the seaborne thermal coal market, such a view seems overly optimistic.

The NAIF board has a fine needle to thread. Under its Investment Mandate it does have a high-risk tolerance for projects, but considering it must also secure repayment it is not difficult to conclude that this would be an unreasonable risk of public money.

Figure 1: Historic and projected coal prices for Newcastle coal (per metric tonne). Note: Carmichael coal would trade at a discount to ICE Newcastle coal as it is lower quality and higher ash content. Also note that price suppression caused by Carmichael is not represented. Data sources: IndexMundi, BarChart<sup>5051</sup>



<sup>50</sup> IndexMundi, Coal, Australian thermal coal Monthly Price - US Dollars per Metric Ton, accessed 10 May 2017: <http://www.indexmundi.com/Commodities/?commodity=coal-australian&months=120>

<sup>51</sup> BarChart, ICE Newcastle Coal Jun '17 (LQM17), accessed 10 May 2017: [https://www.barchart.com/futures/quotes/LQ\\*0/all-futures#/login=undefined&viewName=main?ref=excel](https://www.barchart.com/futures/quotes/LQ*0/all-futures#/login=undefined&viewName=main?ref=excel)

## Dirty deed 2: Web of influence

Do the people in charge of \$5 billion in public money have the diverse backgrounds and the expertise to help create the future northern Australians want? Could they be unduly influenced by their professional backgrounds and contacts?

Our examination of the professional histories and backgrounds of the NAIF directors shows a board with experience skewed towards mining and fossil fuels rather than the diversified industries that are critical for the future of northern Australia.

The board, which was appointed by the federal government, has relatively little expertise across industries such as communications, transport, education, research and clean, renewable energy (northern Australia is home to some of Australia's best renewable energy sources).

The NAIF has a mandate to invest in all infrastructure, and should therefore be looking at projects that benefit the whole economy and support a sustainable future for northern Australia.

*Our North, Our Future: White Paper on developing Northern Australia*, cites airports, ports, rail, roads, energy, water and communications infrastructure as examples of projects that may be funded by the NAIF.<sup>52</sup> But the NAIF board has limited expertise across these more forward-looking industries.

### The NAIF board

#### **Sharon Warburton (Chair)**

Professional history:

- Current Non-Executive Director, [Fortescue Metals Group Limited](#)
- Current Non-Executive Director, [Gold Road Resources Limited](#), a Western Australian

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<sup>52</sup>Australian Government: Office of Northern Australia, *Our North, Our Future: White Paper on Developing Northern Australia*, page 86, accessed 10/05/17: <http://northernaustralia.gov.au/files/files/NAWP-FullReport.pdf>

gold prospecting company

- Current Director, [Western Power](#), a state-owned electricity distribution company with two coal fired plants that produce about 50 per cent of the electricity of Western Australia<sup>53</sup>
- Current Non-Executive Director, [Barmenco](#), an “International leader in underground hard rock mining”<sup>54</sup>
- Current Director, [Gold Industry Group](#), a not-for-profit, member-based industry association representing the interests of gold producers, explorers, prospectors and service providers<sup>55</sup>
- Former Executive Director Strategy & Finance, [Brookfield Multiplex](#), a construction company with interests in various Australian mining projects, such as the Roy Hill mine<sup>56</sup>
- Winner of 2014 [Telstra Women's Business Award](#) for Western Australia, and 2015 Westpac AFR 100 Women of Influence Finalist<sup>57</sup>
- Director, [Perth Children’s Hospital Foundation](#)<sup>58</sup>
- Part-time member, [Takeovers Panel](#)<sup>59</sup>
- Non-Executive Director, [NEXTDC](#),<sup>60</sup> tech company
- Advisory board member, [Curtin Business School Asia Business Centre](#)<sup>61</sup>

## Khory McCormick

Professional history:

- Current consultant [Bartley Cohen Litigation Lawyers](#), a firm acting across a range of sectors including construction and mining<sup>62</sup>
- Former Chair, [Energex](#), a Queensland electricity distribution company, June 2004 – 06<sup>63</sup>
- Former Chair, [Green Cross](#),<sup>64</sup> a “global independent non-profit and non-governmental

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<sup>53</sup> Western Power, *Power Generation*, accessed 10 May 2017: <https://www.westernpower.com.au/about/electricity-innovation/power-generation/>

<sup>54</sup> Barmenco, *Australia*, accessed 10 May 2017: <http://www.barmenco.com.au/projects/australia.html>

<sup>55</sup> Gold Industry Group, *About the Group*, accessed 10 May 2017, <http://www.goldindustrygroup.com.au/#home>

<sup>56</sup> Multiplex Global, *projects*, accessed 18 May 2017: <http://www.multiplex.global/projects/roy-hill-non-processing-infrastructure-east-pilbara-wa/>

<sup>57</sup> NAIF Board, accessed 17 May 2017: <http://www.naif.gov.au/about-us/naif-board/>

<sup>58</sup> Perth Children’s Hospital Foundation, accessed 18 May 2017: <https://pCHF.org.au/about-us/meet-the-board/>

<sup>59</sup> NAIF Board, accessed 17 May 2017: <http://www.naif.gov.au/about-us/naif-board/>

<sup>60</sup> Sharon Warburton LinkedIn profile, accessed 17 May 2017: <https://www.linkedin.com/in/sharon-warburton-43576b23/?ppe=1>

<sup>61</sup> Sharon Warburton LinkedIn profile, accessed 17 May 2017: <https://www.linkedin.com/in/sharon-warburton-43576b23/?ppe=1>

<sup>62</sup> Bartley Law, *Welcome*, accessed 10 May 2017, <http://www.bartleylaw.com>

<sup>63</sup> Lawyers Weekly, *QLS defends new Energex chair*, 26 Nov 2004, accessed 10 May 2017: <https://www.lawyersweekly.com.au/news/2238-qls-defends-new-energex-chair>

<sup>64</sup> Green Cross Australia, *Problem Solver*, accessed 21/04/2017 from [http://www.greencrossaustralia.org/media/134163/brisbanelegal\\_khorymccormick.pdf](http://www.greencrossaustralia.org/media/134163/brisbanelegal_khorymccormick.pdf)

environmental organisation working to address the interconnected global challenges of security, poverty eradication and environmental degradation through a combination of advocacy and local projects,<sup>65</sup> 2009 – 2010

- Former Partner, [Minter Ellison](#), Brisbane law firm that has done work with the Australian coal industry. Clients have included Xstrata, Gloucester coal,<sup>66</sup> Yanzhou coal<sup>67</sup> and Coal Mines Australia, a BHP Billiton subsidiary, on the Caroon Coal Project among others. McCormick lists Rio Tinto and Macarthur Coal as clients.<sup>68</sup> A 35-year career at the firm, until December 2016
- Vice-President, [Australian Centre for International Commercial Arbitration](#)<sup>69</sup>

### Sally Pitkin

Professional history:

- Former Director, audit committee of [Efic](#), 2007 to 2013
- Current Director, [Council of Economic Development of Australia](#) (CEDA)<sup>70</sup>, which hosted an event on behalf of Adani on March 31 where Jeyakumar Janakaraj, CEO and Country Head – Australia, Adani Mining, was keynote speaker<sup>71</sup>
- Non-Executive Director, [Australian Institute of Company Directors](#)<sup>72</sup>
- Member of External Advisory Board, [Australian Securities and Investment Commission](#)<sup>73</sup>
- Adjunct Professor, [University of Queensland Business School](#)<sup>74</sup>
- Director of [Link Group](#), [Super Retail Group](#), [Star Entertainment Group](#)<sup>75</sup>

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<sup>65</sup> International Geneva, *Non-governmental organizations*. Retrieved 24 April, 2017 from <http://www.geneve-int.ch/categories/non-governmental-organizations?page=1&theme=2382>

<sup>66</sup> Minter Ellison, *Gloucester Coal*, accessed 10 May 2017: [http://www.minterellison.com/News/Announcement/20110607\\_GloucesterCoal/](http://www.minterellison.com/News/Announcement/20110607_GloucesterCoal/)

<sup>67</sup> Minter Ellison, *Minerals*. Retrieved 21 April 2017 from <http://www.minterellison.com/energy-and-resources/minerals/>

<sup>68</sup> Green Cross Australia, *Problem Solver*, Retrieved April 21, 2017: [http://www.greencrossaustralia.org/media/134163/brisbanelegal\\_khorymccormick.pdf](http://www.greencrossaustralia.org/media/134163/brisbanelegal_khorymccormick.pdf)

<sup>69</sup> NAIF Board, accessed 17 May 2017: <http://www.naif.gov.au/about-us/naif-board/>

<sup>70</sup> Committee for economic development of Australia, *Dr Sally Pitkin*, accessed 21/04/2017: <http://www.ceda.com.au/about/governance/board-of-directors/sally-pitkin>

<sup>71</sup> Committee for economic development of Australia, *Energy and resources: megaprojects*, accessed 21/04/2017: <http://www.ceda.com.au/events/eventdetails/2017/3/q170331?EventCode=Q170331>

<sup>72</sup> NAIF Board, accessed 17 May 2017: <http://www.naif.gov.au/about-us/naif-board/>

<sup>73</sup> NAIF Board, accessed 17 May 2017: <http://www.naif.gov.au/about-us/naif-board/>

<sup>74</sup> NAIF Board, accessed 17 May 2017: <http://www.naif.gov.au/about-us/naif-board/>

<sup>75</sup> NAIF Board, accessed 17 May 2017: <http://www.naif.gov.au/about-us/naif-board/>

## Karla Way-McPhail

Professional history:

- Current CEO, Coal [Train Australia](#),<sup>76</sup> a coal industry training company operating in conjunction with Undamine Industries
- Current CEO and Director, [Undamine Industries](#), a coal contracting company servicing the Bowen Basin, which has contracts with large coal companies Anglo American, Glencore Xstrata and BMA<sup>77</sup>

## Barry Coulter

Professional history:<sup>78</sup>

- Current Director, [Northern Territory Airports](#)
- Former Director, [Airnorth](#), a company that operates charter flights in Northern Australia
- Former Chairman, betting company International All Sports
- Member of Northern Territory Parliament for 16 years; former Deputy Chief Minister and Minister for Mines and Energy
- Previous Chairman, [Darwin Ports Corporation](#)
- Former Chairman, Sherwin Iron Ore, defunct Northern Territory iron ore company<sup>79</sup>. AEC filings show Sherwin Iron Ore donated \$15,000 to the Liberal National Party in 2014 while Coulter was Chairman.<sup>80</sup>
- Former cattle station operator<sup>81</sup>
- Instrumental in getting the North-South Railway, Adelaide to Darwin, built<sup>82</sup>

## Justin Mannolini

Professional history:

- Current Chairman, [Jindalee Resources Limited](#), WA prospecting company: gold, uranium, magnetite, iron ore, base metals, rare earths<sup>83</sup>

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<sup>76</sup> Coal train, *Karla Way-McPhail*, accessed 10 May 2017: <http://coaltrain.com.au/karla-way-mcphail/>

<sup>77</sup> Undamine, *About us*, accessed 10 May 2017: <http://undamine.com.au/about-us/>

<sup>78</sup> Bloomberg, *Executive Profile: Barry Coulter, 2017*, accessed 10 May 2017: <https://www.bloomberg.com/research/stocks/private/person.asp?personId=22531810&privcapId=884248>

<sup>79</sup> ABC, *NT iron ore company Sherwin Iron goes into voluntary administration*, 11 July 2014, accessed 10 May 2017 <http://www.abc.net.au/news/2014-07-11/nt-iron-ore-industry-suffers/5590672>

<sup>80</sup> AEC, *SLDQ9A01 Amendment 1*, 1 Dec 2016, accessed 11 May 2017: <http://periodicdisclosures.aec.gov.au>Returns/55/SLDQ9A01.pdf>

<sup>81</sup> NT News, *Former Deputy Chief Minister sells cattle station*, 19 Apr 2016, accessed 10 May 2017: <http://www.ntnews.com.au/realestate/former-deputy-chief-minister-sells-cattle-station/news-story/0de4fc33854f314f138bd1dda2e2bbe2>

<sup>82</sup> Airport Development Group, *Annual Report 2013-14*, 2014, p.9, accessed 10 May 2017: <http://www.alicespringsairport.com.au/sites/default/files/ADG%20Annual%20Report%202014%20Web.pdf>

<sup>83</sup> Jindalee, *Project Overview*, accessed 10 May 2017: <http://jindalee.net/projects-overview/>

- Current partner, [Gilbert + Tobin](#), specialises in corporate law and has expertise in energy and resources<sup>84</sup>
- Former Executive Director, March 2013 – May 2016<sup>85</sup>, in the investment banking division of [Macquarie Group](#) in Perth, a large player in resources capital markets and mergers and acquisitions<sup>86</sup>. Macquarie has been linked to Adani<sup>87</sup> and is a big financier of fossil fuel projects in Australia and the US
- Former Partner, [Herbert Smith Freehills](#), June 1999 – Nov 2007, which represents Adani mining<sup>88</sup>
- Chairman of the Board of Governors [WA Museum Foundation](#)<sup>89</sup>
- Founder and Managing Director, Captivate Venture Capital, “advises Australian companies with innovative products and services geared towards disruption of traditional business models”.<sup>90</sup>

## Bill Shannon

Professional history:

- Former Mayor, [Cassowary Coast Regional Council](#)
- Former company secretary, [Tully Sugar Limited](#)
- Former company secretary, [Wormald International Limited](#), a major supplier of equipment and services to the Australian coal industry; Xstrata, Newcastle coal port, Komatsu, Port Kembla Coal<sup>91</sup>

## The politicians who advocate for coal

### Matthew James Canavan – Minister in charge of spending the NAIF’s \$5 billion

Matthew Canavan is the Minister for Resources and Northern Australia. He is responsible for

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<sup>84</sup> <https://www.gtlaw.com.au/expertise/energy-and-resources>

<sup>85</sup> Gilbert + Tobin, *Justin Mannolini*, accessed 10 May 2017: <https://www.gtlaw.com.au/people/justin-mannolini>

<sup>86</sup> Macquarie Energy, *Energy services: Trading*, accessed 21/04/2017: <http://www.macquarie.com/mgl/com/energy/energy-services/trading>

<sup>87</sup> The Economic Times, *Adani sets up financial services company, eyes Macquarie NBFC*, 29 Jun 2016, accessed 10 May 2017: <http://economictimes.indiatimes.com/news/industry/banking/finance/adani-sets-up-financial-services-company-eyes-macquarie-nbfc/articleshow/52964192.cms>

<sup>88</sup> Herbert Smith Freehills, *Mining*, accessed 24 April, 2017: <https://www.herbertsmithfreehills.com/our-expertise/sector/mining>

<sup>89</sup> NAIF Board, accessed 17 May 2017: <http://www.naif.gov.au/about-us/naif-board/>

<sup>90</sup> LinkedIn profile: <https://www.linkedin.com/in/justinmannolini/?ppe=1>

<sup>91</sup> Wormald, *Tyco takes safety at Port Kembla Coal Terminal to new heights*, 2015, accessed on 10 May 2017 <https://www.wormald.com.au/media/tyco-takes-safety-at-port-kembla-coal-terminal-to-new-heights>

the NAIF. This includes selecting the board, setting the Investment Mandate and rejecting a board recommendation for a loan. Minister Canavan's brother John is the Director of Mergers and Acquisitions for coal giant Peabody Energy<sup>92</sup>, which has funded climate denial groups<sup>93</sup>.

Minister Canavan is one of the most enthusiastic and vocal coal advocates in the federal government and has been promoting the construction of coal-fired power plants in Queensland. He has announced that coal projects are eligible to apply for NAIF funding.<sup>94</sup>

The Central Queensland Liberal National Party Team website, which is authorised by Minister Canavan, advocates for coal-fired power plants to be built in Queensland and claims "Australia is the world's largest exporter of clean coal." The website also spruiks the Central Liberal National Party advocacy efforts to secure public money to be spent on developing the Urannah Dam to secure water for the Galilee Basin.<sup>95</sup>

Minister Canavan was previously an economist at the Productivity Commission, an executive at KPMG and Barnaby Joyce's Chief of Staff, in 2010.<sup>96</sup>

### **Steven Ciobo – Minister in charge of Efic, which has a history of funding mining projects**

Steven Ciobo is the Federal Minister for Trade, Tourism and Investment and Federal Member for Moncrieff, Queensland. Minister Ciobo is responsible for Efic, and is represented on the board by the Secretary of the Department of Foreign Affairs. When questioned on ABC's Q&A last year about the impact on the Great Barrier Reef and investing in coal at the end of the mining boom, Minister Ciobo said "global demand for coal is still going through the roof".<sup>97</sup> The Minister also told the Q&A audience that projects like the Carmichael mine, along with tourism, would help transition the Queensland economy.<sup>98</sup>

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<sup>92</sup> Accessed 10 May 2017: <https://au.linkedin.com/in/john-canavan-17b47a78>

<sup>93</sup> Goldman, G. (2016, June 30). Peabody Energy Discloses Extensive Payments to Climate Denial Groups. *Union of Concerned Scientists*. Retrieved from <http://blog.ucsusa.org/gretchen-goldman/peabody-energy-discloses-extensive-payments-to-climate-denial-groups>

<sup>94</sup>The Guardian, 'Clean' coal power plants: Matt Canavan hints at government subsidy, 3 Feb 2017, accessed 10 May 2017: <https://www.theguardian.com/environment/2017/feb/03/clean-coal-power-plants-matt-canavan-hints-at-government-subsidy>

<sup>95</sup> Central Queensland Local Jobs, *Coal and Resources*, accessed 24 April, 2017 from [http://www.cqlocaljobs.com.au/mining/water\\_infrastructure](http://www.cqlocaljobs.com.au/mining/water_infrastructure)

<sup>96</sup> Parliament of Australia, *Senator the Hon Matthew Canavan*, accessed 10 May 2017: [http://www.aph.gov.au/Senators\\_and\\_Members/Parliamentarian?MPID=245212](http://www.aph.gov.au/Senators_and_Members/Parliamentarian?MPID=245212)

<sup>97</sup> The Conversation, *Election FactCheck Q&A: is global demand for coal still going through the roof?*, 3 June 2016, Accessed 10 May 2017:

<http://theconversation.com/election-factcheck-qanda-is-global-demand-for-coal-still-going-through-the-roof-60234>

<sup>98</sup> Renew Economy, 'Coalition's transition plan: build a mega coal mine', 31 May 2016, accessed 17/05/17: <http://reneweconomy.com.au/coalitions-transition-plan-build-a-new-mega-coal-mine-15392/>



## Prime Minister Malcolm Turnbull, Deputy Prime Minister Barnaby Joyce and Minister Josh Frydenberg are all supporters of Adani

Prime Minister Malcolm Turnbull was recently in India meeting Adani Chairman Gautam Adani. The Prime Minister has been enthused about the Carmichael mine saying it would create “tens of thousands of jobs”<sup>99</sup>, despite evidence presented to the Queensland Land Court that it would only create 1,464 jobs.<sup>100</sup> He has vowed to change the Native Title laws to expedite the project after being lobbied by Adani founder Gautam Adani.<sup>101</sup>

Deputy Prime Minister Barnaby Joyce is another supporter of Adani, recently warning of a “tipping point” for the project if the NAIF did not deliver the funding for the rail line.<sup>102</sup>

As the Minister for the Environment and Energy, Josh Frydenberg is on the record as saying there was a “strong moral case” for developing the mine.<sup>103</sup>

## Dirty deed 3: Secrecy and flimsy criteria

Are the NAIF Board directors sitting on a pot of money that they can spend however they like because of flimsy criteria?

It's clear there is strong political will in favour of the Adani mine and supporting infrastructure, and the NAIF board's expertise is skewed towards the mining industry. We have also found the NAIF's Investment Mandate which guides the board directors in their decisions, is opaque and vague, leaving much room for discretion.

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<sup>99</sup> The Australian, *Adani coal mine: Malcolm Turnbull moves to change native title laws*, 11 Apr 2017, accessed 10 May 2017 <http://www.theaustralian.com.au/national-affairs/adani-coal-mine-malcolm-turnbull-moves-to-change-native-title-laws/news-story/a9c176fc41a7af1363dca77ef23271b4>

<sup>100</sup> Land Court of Queensland, *Adani Mining Pty Ltd v Land Services of Coast and Country Inc & Ors* [2015] QLC 48, 15 Dec 2015, accessed on 10 May 2017: <http://www.edoqld.org.au/wp-content/uploads/2015/11/mra428-14etc-adani.pdf>

<sup>101</sup> Australian Financial Review, *Malcolm Turnbull tells Adani native title issues will be 'fixed'*, 11 Apr 2017, accessed 10 May 2017 <http://www.afr.com/news/politics/malcolm-turnbull-tells-adani-native-title-issues-will-be-fixed-20170410-gvi6i3>

<sup>102</sup> The Guardian, *Adani mine needs \$1bn public funding to go ahead, Barnaby Joyce says*, 11 Apr 2017, accessed 10 May 2017: <https://www.theguardian.com/australia-news/2017/apr/11/adani-carmichael-mine-needs-1bn-public-funding-barnaby-joyce>

<sup>103</sup> Sydney Morning Herald, *'Moral' imperative in Australia's biggest coal mine, says Resources Minister Josh Frydenberg*, 18 Oct 2015, accessed 10 May 2017: <http://www.smh.com.au/federal-politics/political-news/moral-imperative-in-australias-biggest-coal-mine-says-resources-minister-josh-frydenberg-20151017-gkbu0s.html>

## Vague and flimsy criteria with little regard for public benefit

As noted at the start of this report, the Investment Mandate outlines mandatory and non-mandatory eligibility selection criteria that a project must satisfy to be eligible for financial assistance. Mandatory criteria cover public benefit, location and benefit to northern Australia, enhancement of economic infrastructure, demonstration of ability of the project to repay the loan, and at least 50% of private funding allocated to the project.

The Investment Mandate definition of “public benefit” is in itself vague. In considering public benefit, the board will “give preference to” projects that will benefit “the broader economy and the community”.<sup>104</sup>

Australia’s air, water, wildlife and communities will suffer if Carmichael proceeds. The destruction to the environment will be immense.

Even if coal prices were to rally and the mine were to be financially successful, the public benefit would be negligible particularly given the environmental havoc. Meanwhile, the coal exported to India would be low grade with a high ash content, known to be associated with respiratory illnesses.<sup>105</sup>

The Investment Mandate offers very little protection for our environment. It only rates a passing mention, in relation to normal state and federal government environmental approvals. In Section 16 under the title Reputation: “The Facility must have regard to Australian best practice government governance principles, and Australian best practice corporate governance for Commercial Financiers, when performing its functions, including developing and annually reviewing policies with regard to:

- (a) environmental issues;
- (b) social issues; and
- (c) governance issues.”<sup>106</sup>

The Investment Mandate also only makes a cursory mention of the types of infrastructure to be

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<sup>104</sup> Australian Government, *Northern Australia Infrastructure Facility Investment Mandate Direction 2016*, 4 May 2016, accessed 10/05/17: <https://www.legislation.gov.au/Details/F2016L00654>

<sup>105</sup> ABC, *Adani plans to export low quality, high ash coal to India, court told*, 3 Apr 2017, accessed 10 May 2017: <http://www.abc.net.au/news/2017-04-03/adani-plans-to-export-low-quality-coal-to-india-report-says/8409742>

<sup>106</sup> Australian Government, *Northern Australia Infrastructure Facility Investment Mandate Direction 2016*, 4 May 2016, 17(1), accessed 10/05/17: <https://www.legislation.gov.au/Details/F2016L00654>

funded and the project does not even have to necessarily be “needed” to be approved. The NAIF’s Investment Mandate specifies “identified need for a project” as only a non-mandatory criterion.

There is no indication from the publicly available NAIF disclosures, or from the Investment Mandate, that the NAIF intends to engage in climate modelling for its proposals.

In regard to risk to Australia’s reputation, there is already substantial national and international opposition to the development of Carmichael.

Australia and 146 other countries have ratified the Paris Agreement, committing to keep “the increase in the global average temperature to well below 2°c above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°c above pre-industrial levels.”<sup>107</sup> The Australian government support for Carmichael would appear to bump up heavily against this commitment.

For the NAIF directors to consider allocating one-fifth of their budget to a project so damaging for the environment and with questionable prospects of financial success, cannot be seen as acting in the public benefit.

## Weak checks and balances

In a letter to Auditor-General Grant Hehir, former Treasurer Wayne Swan said the Investment Mandate provided “no real security for the \$5 billion appropriated to the NAIF”.

“As it is currently structured I believe the NAIF presents the opportunity for a domineering Minister to misallocate billions of dollars of public money – without any proper checks or balances.”

Mr Swan compared the Investment Mandate to the portfolio benchmarks of the Clean Energy Finance Corporation (CEFC) which had had a successful track record of making positive returns for taxpayers.

“The CEFC must operate with a portfolio benchmark return of the five-year Australian

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<sup>107</sup> [http://unfccc.int/paris\\_agreement/items/9485.php](http://unfccc.int/paris_agreement/items/9485.php)

government bond rate plus 3 or 4 per cent per annum over the medium to long term. The NAIF doesn't have a requirement for a positive return, only that the board needs to be satisfied that the government can be repaid or the investment can be refinanced.”<sup>108</sup>

Overall, the NAIF Investment Mandate shows that the concessions are generous, with longer loans and lower interest rates than those offered by commercial financiers, but checks and balances are weak. If a project fails, taxpayers may rank last in a wind-up – that is, they would stand behind other secured creditors – and would therefore be unlikely to be repaid at all.

## Shrouded in secrecy

NAIF is not quarantined from public scrutiny by an exemption from FOI requests, but many of its operations and processes are shrouded in secrecy. The NAIF can't be contacted by phone, and it doesn't appear to have a media contact. Repeated efforts to contact the NAIF, and to obtain information on the NAIF, have come to nought. NGOs, including ACF, have submitted more than 10 FOI and Right to Information requests to the NAIF, relevant departments and ministerial offices, seeking information on NAIF, Carmichael and Adani. These requests have yielded little or no information.

A FOI request submitted by ACF to the Department of Infrastructure and Regional Development and its responsible Ministers, Darren Chester and Fiona Nash, for all correspondence (emails, briefings, minutes) between the Department and the Ministers' offices mentioning NAIF, Adani, Carmichael Mine and Railway, came back with a response that no documents existed. On 18 May 2017 ACF finally received a response to an FOI request submitted in December 2016 to the Department of Foreign Affairs and Trade, requesting the same correspondence between the Department and Minister Ciobo's office. This highly redacted response provided very little information.

The Australia Institute has had a similar experience with FOI requests to the NAIF, noting in its report *Don't be so Naif* that one of the reasons given by NAIF against disclosure in response to a request was that it was a small agency that would struggle to process substantial requests.<sup>109</sup> A small agency with a remit of \$5 billion belonging to the Australian community.

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<sup>108</sup> Wayne Swan MP, *Northern Australia Infrastructure Facility*, 27 Mar 2017, accessed 10 May 2017: <https://www.anao.gov.au/sites/g/files/net2766/f/Letter%20to%20Auditor-General%20Regarding%20NAIF.pdf>

<sup>109</sup> The Australia Institute, *Don't be so Naif*, Mar 2017, p.30, accessed 10 May 2017, <http://www.tai.org.au/sites/default/files/P318%20Dont%20be%20so%20naif%20FINAL.pdf>

A Risk Appetite Statement which is required under the Investment Mandate is not publicly available. For some time, it appeared the NAIF did not have a Risk Management Statement.<sup>110</sup> The NAIF is now on the record as saying it has a risk management framework in place<sup>111</sup> but has refused requests to disclose it.

The NAIF has also failed to answer questions on notice put to it through the Senate estimates process. Following hearings in early March, answers were due back to the economics committee by April 13, but the vast majority remain unanswered.<sup>112</sup>

## Dirty deed 4: Questionable advisers

Is NAIF being advised by an agency with a track record of backing big coal, with their very own connections to fossil fuel. Could this lead to more public money being wasted?

The NAIF has very limited resources and staff given the size of its remit. As Former Labor Treasurer Wayne Swan pointed out in his letter to the Auditor-General, NAIF has just seven staff, to allocate \$5 billion.<sup>113</sup> Australia's official export credit agency has been assigned by the Government to advise and support the NAIF. At the executive level, five Efic personnel have been seconded to NAIF to assist in evaluating projects.

Efic has a track record in making sizeable investments in large fossil fuel projects. It is currently considering a deal to finance the 12 million tonnes per annum Boikarabelo coal mine and railway in South Africa, ironically a project closer by ship to India than Adani's Carmichael and one that will directly compete with Australian exports in a declining Indian market for seaborne coal imports.<sup>114</sup>

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<sup>110</sup> The Australia Institute, Don't be so Naif, Mar 2017, p.2, accessed 10 May 2017,

<http://www.tai.org.au/sites/default/files/P318%20Dont%20be%20so%20naif%20FINAL.pdf>

<sup>111</sup> Senate Committee Hansard, Estimates: Thursday 2 March 2017, Page 180 accessed 11 May 2017,

[http://www.aph.gov.au/~media/Committees/economics\\_ctte/estimates/add\\_1617/Hansard/OFFICIAL\\_EconomicsLegislationCommittee\\_2017\\_03\\_02\\_4806.pdf](http://www.aph.gov.au/~media/Committees/economics_ctte/estimates/add_1617/Hansard/OFFICIAL_EconomicsLegislationCommittee_2017_03_02_4806.pdf)

<sup>112</sup> [http://www.aph.gov.au/Parliamentary\\_Business/Senate\\_Estimates/economicsctte/estimates/add1617/Industry/index](http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/economicsctte/estimates/add1617/Industry/index)

<sup>113</sup> Wayne Swan MP, *Northern Australia Infrastructure Facility*, 27 Mar 2017, accessed 10 May 2017:

<https://www.anao.gov.au/sites/g/files/net2766/f/Letter%20to%20Auditor-General%20Regarding%20NAIF.pdf>

<sup>114</sup> Efic, *Transaction Disclosure*, accessed 10 May 2017 <https://www.efic.gov.au/about-efic/our-corporate-responsibility/transactions/transaction-disclosure/>

Despite its small and medium-sized enterprise (SME) mandate, in 2014 more than three-quarters of the \$576.7 million worth of transactions signed by Efic went to just three parties: a Chilean company that runs the biggest copper mine in the world, a construction giant listed on the Johannesburg Stock Exchange and a billion-dollar Belgian smelting group.<sup>115116</sup>

According to a 2014 report by NGO AidWatch which analysed eleven Efic annual reports:

“Efic has backed fossil fuels over renewables at a rate of more than 100:1 over the past 11 years. The lavish support that Efic has provided to facilitate coal exports (around \$7.2 billion) and fossil fuel-based power sector infrastructure (\$439 million) – totalling almost \$7.6 billion – dwarfs the mere \$67 million in renewables that Efic has supported over the same period.<sup>117</sup>

Efic is governed by a board of 10 directors. One of the directors, Annabelle Chaplain,<sup>118</sup> is linked to Adani as she is also a director of Downer-Edi Limited, the civil engineering firm which is Adani’s mining contractor for the Carmichael Mine.<sup>119</sup> She is also a former director of Coal & Allied Industries.<sup>120</sup> Another director, Denise Goldsworthy,<sup>121</sup> is a former executive and director of major coal miner Rio Tinto, and a member of the Minerals Research Institute of Western Australia.<sup>122123</sup>

ACF believes it’s possible, given the Carmichael rail is dependent on the mine, that Efic could present a backdoor option to finance the mine. Efic’s remit is to support projects involving exports via loans, insurance and guarantees.<sup>124</sup> The government could use Efic funds to insure loans provided by private banks. And Efic has a track record of funding large resource projects.<sup>125126</sup>

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<sup>115</sup> Michael West, Efic’s capital deployed doing deals with multinationals, 2 Feb 2015, accessed 11 May 2017: <http://www.michaelwest.com.au/efics-capital-deployed-doing-deals-with-multinationals/>

<sup>116</sup> Resgen, Our Business: Boikarabelo Coal Mine, accessed 10 May 2017: <http://www.resgen.com.au/our-business/boikarabelo-mine>

<sup>117</sup> AidWatch, *100 to 1: Efic’s gamble with climate*, 2014, accessed 10 May 2017: <http://www.aidwatch.org.au/wp-content/uploads/2014/06/EFIC-and-climate-report-03.pdf>

<sup>118</sup> Efic, *Our Board*, accessed 11 May 2017: <https://www.efic.gov.au/about-efic/our-organisation/our-board/>

<sup>119</sup> Australian Financial Review, Downer does new deal with Adani to develop Indian coal mines, July 6 2016, accessed 11 May 2017: <http://www.afr.com/business/construction/downer-does-new-deal-with-adani-to-develop-indian-coal-mines-20160706-gpzta>

<sup>120</sup> LinkedIn, *Annabelle Chaplain*, accessed 11 May 2017: <https://www.linkedin.com/in/annabelle-chaplain-04413515/>

<sup>121</sup> Efic, *Our Board*, accessed 16 May 2017: <https://www.efic.gov.au/about-efic/our-organisation/our-board/>

<sup>122</sup> LinkedIn, Denise Goldsworthy, accessed 16 May 2017: <https://www.linkedin.com/in/denise-goldsworthy-b77b9b3/?ppe=1>

<sup>123</sup> MRIWA, *Our Board*, accessed 11 May 2017: <http://www.mriwa.wa.gov.au/about-us/board/>

<sup>124</sup> Efic, About Efic, accessed 11 May 2017: <https://www.efic.gov.au/about-efic/>

<sup>125</sup> Efic, *See the clients we have helped in the Mining industry*, accessed 12 May 2017: <https://www.efic.gov.au/education-and-tools/case-studies/mining/>

<sup>126</sup> Australian Government, *Northern Australia Infrastructure Facility Investment Mandate Direction 2016*, 4 May 2016, accessed 10/05/17: <https://www.legislation.gov.au/Details/F2016L00654>

Under the Export Finance and Insurance Corporation Act 1991 there are provisions to insure overseas debt transactions.<sup>127</sup>

The Efic legislation allows the Minister to approve an insurance contract for an overseas transaction if it assists the development of a foreign country and is in the national interest.<sup>128</sup>

The wording of the legislation allows considerable wriggle room, suggesting that only part of a transaction needs to be in the public interest.

Efic would only be required to provide disclosure in its annual report.<sup>129</sup> As Efic reports at the June financial year end, it could be more than a year before such a transaction came to light if the transaction was approved after the June 2017 balance date.

Investments by Efic come at the direction of the Minister for Trade and Investment, Steven Ciobo.<sup>130</sup> When contacted, a spokesman for the Department of Foreign Affairs and Trade, which oversees the portfolio, referred the questions to Efic. The spokesperson for Efic referred us firstly to NAIF and then back to DFAT. DFAT subsequently declined to respond.

**We contacted Minister Ciobo's office with these written questions:**

1. It appears the Efic legislation provides for the opportunity of Efic insuring loans and providing guarantees for banks in overseas transactions involving Australian exporters. It therefore seems that Adani Mining Ltd would be eligible for Efic support in order to develop its export market. Has the Minister given or will the Minister give directions in this regard?
2. Has the Minister discussed this kind of solution (as the rail line is dependent upon the mine being built and Efic is already devoting resources to assist NAIF in project evaluation)?
3. Could Efic proceed under the legislation without gaining ministerial consent?

**We received no response to our questions.**

The Australian public and environment groups have put intense pressure on major banks not to

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<sup>127</sup> Australian Government, Export Finance and Insurance Corporation Act 1991, 10 Nov 2016, s. 22, accessed 10 May 2017: <https://www.legislation.gov.au/Details/C2014C00532>

<sup>128</sup> Australian Government, Export Finance and Insurance Corporation Act 1991, 10 Nov 2016, s. 27, accessed 10 May 2017: <https://www.legislation.gov.au/Details/C2014C00532>

<sup>129</sup> Efic, Reporting, accessed 11 May 2017: <https://www.efic.gov.au/about-efic/our-governance/reporting/>

<sup>130</sup> Australian Government, Export Finance and Insurance Corporation Act 1991, 10 Nov 2016, s. 9, accessed 10 May 2017: <https://www.legislation.gov.au/Details/C2014C00532>

fund Adani's Carmichael mine. But as Efic acts at the directions of the Minister, it could consider a funding solution for Carmichael; a loan guarantee to a commercial banking syndicate for project finance or insurance on those loans might revive the interest of the commercial banks in what is a highly controversial project.<sup>131</sup>

If Efic were to provide insurance or guarantees for the mining project, the upfront costs would not be onerous. They may also entail an insurance payment by the lenders to Efic.

Parts 4 and 5 of the Efic Act, respectively those governing insurance and financial services and products and those covering national interest transactions, are explicitly exempted from the FOI Act.

This renders further investigation difficult. Even if it is considered unlikely that Efic will be deployed as a stalking horse for Adani's coal mine, if such an arrangement were being deliberated, the public would not necessarily know about it. The bankers to the project would be disclosed but their insurer, the Australian public via Efic, would not necessarily be disclosed.

ACF emphasises that although questions have been put to DFAT and Efic, the questions were not answered and there is no direct evidence that Efic will support commercial loans for Carmichael as yet, or is even in discussions. We know the Government is backing the mine, and it has a legislative facility in place to finance it via Efic.

**We are asking Minister Ciobo to rule out Efic funding for an onshore resource project. There has been no response from the Department or the Minister's Office, despite repeated approaches.**

**With a significant amount of public money on the line for a controversial and discredited project that will cause enormous damage to our environment, these are legitimate questions that warrant answers.**

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<sup>131</sup>Efic, *Large exporters and project finance*, accessed 10 May 2017: <https://www.efic.gov.au/business-solutions/large-exporters-and-project-finance/large-exporters-and-project-finance/>