



Environmental  
Defenders Office



Environmental  
Justice Australia

2<sup>nd</sup> February, 2020

Mr Joe Kaeser  
President and CEO Siemens AG

By email only: [joe.kaeser@siemens.com](mailto:joe.kaeser@siemens.com)

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[mobility.au@siemens.com](mailto:mobility.au@siemens.com),

Dear Mr Kaeser,

### **Adani Carmichael coal mine and railway project**

We refer to the recent publicity about Siemens contracting with a corporate entity within the Adani Group (**referred to in this letter collectively as Adani**) to provide signalling equipment for the Carmichael Mine's railway and confirm that we act for Business Services of Coast and Country Inc (**our Client**).

The Environmental Defenders Office and Environmental Justice Australia are independent, non-profit Australian legal practices. We are lawyers who act in the public interest for the protection of the environment. We are leading Australian legal experts in environmental law, climate law and corporate and government accountability.

#### Siemens' contract and Adani's environmental obligations

1. On 12 January 2020, Siemens published your statement on the Adani Carmichael Project. (**the Statement**)<sup>1</sup> The Statement outlined that:
  - Siemens had signed a contract with a corporate entity within the Adani Group on the 10 December 2019; and

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<sup>1</sup> <https://press.siemens.com/global/en/news/joe-kaeser-adani-carmichael-project> (accessed 29 January 2020)

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- The contract contained a provision giving Siemens “*the right to pull out of the contract if our customer violates the very stringent environmental obligations*” (the environmental clause).
2. Your statement, and the negotiation of the environmental clause, indicate the significant weight Siemens places on its own sustainable business practices and working with companies holding similar values. By this letter our client seeks to provide to you, and the Siemens Board, with up-to-date information about Adani’s relevant environmental history, both in respect of the Carmichael project in Australia, and Adani’s track record abroad. Importantly, Adani has already violated environmental obligations it is subject to in respect of its Australian operations, and proceedings remain on foot in respect of further alleged non-compliance.

*The Adani Group’s compliance with Australian environmental obligations*

3. In April 2019, Adani was issued a penalty infringement fine for the release of contaminated stormwater from the Abbot Point coal port into the Caley Valley wetlands, which sit adjacent to the world heritage listed Great Barrier Reef Marine Park. That fine was issued by the Queensland Government for a breach of a condition of its environmental authority.
4. In May 2019, Adani avoided continued prosecution regarding a separate coal-contaminated release incident at the Port by entering into an enforceable undertaking to improve stormwater release monitoring to marine waters.
5. In July 2019, the Department of Environment and Science (the relevant Queensland Government Regulator) filed a prosecution against Adani, for contravening s.480 of the *Environmental Protection Act 1994* (Qld) by giving a document containing information that it knew, or ought reasonably to have known, was false or misleading in a material particular to the regulator. The allegedly false information was related to the amount of land clearing it had undertaken on site. Details of the prosecution were published by our offices in the attached joint medial release dated 19 September 2019.
6. The matter is next listed in court for sentencing on 6 February 2020.
7. In the event Adani Group is convicted of this recent charge, it is our view that the appropriate response is for the Department of Environment and Science to launch an investigation into the company’s ‘*suitable operator*’ status, and – pending the outcome of that investigation - cancel or suspend Adani’s suitable operator registration. We note that Adani’s poor environmental record in Australia, before the Carmichael project has begun in earnest, should also be looked at in the context of the Adani’s environmental record overseas.

*The Adani Group’s track record of environmental compliance outside of Australia*

8. Overseas, entities in the Adani Group have a concerning history of failures to comply with environmental laws. The Adani Group’s global legal compliance record demonstrates numerous serious breaches with adverse consequences for the environment and local people.
9. Our client has requested that we bring to your attention, and that of your Board, information about Adani’s environmental and social record outside of Australia which can be found in the two publications by Environmental Justice Australia below:

- The Adani Brief – February 2017 available online here - [https://www.envirojustice.org.au/wp-content/uploads/2018/12/adani\\_brief\\_eja.pdf](https://www.envirojustice.org.au/wp-content/uploads/2018/12/adani_brief_eja.pdf); and
- The Adani Brief Update - - January 2019 – available online here - [https://www.envirojustice.org.au/wp-content/uploads/2019/03/Adani-Brief\\_update\\_2019.pdf](https://www.envirojustice.org.au/wp-content/uploads/2019/03/Adani-Brief_update_2019.pdf).

10. We note that these publications have not been updated for 2020 and we therefore strongly recommend you make your own detailed enquiries into the numerous breaches of the law, alleged breaches of the law and proceedings still being heard by courts detailed in those reports.

11. Please let us know if we can provide further information. We are available at your convenience to discuss these issues with you and your colleagues.

Yours sincerely,



Jo-Anne Bragg  
Executive Director Brisbane, Solicitor  
Environmental Defenders Office

Ariane Wilkinson  
Senior Lawyer  
Environmental Justice Australia

19 September 2019



**Adani to appear in Court tomorrow and could lose its ability to operate in Qld**

Adani could lose its ability to operate in Queensland if the company is found guilty of providing false and misleading information to the State Government.

Following an abrupt adjournment of the first mention in August, Adani will now appear in Brisbane Magistrates Court tomorrow, 20 September 2019 at 9am to face first mention of the prosecution against it for supplying false or misleading documents.

This criminal offence carries a penalty of up to \$2,838,375 for the company.

If Adani is found guilty of these recent charges, the Environmental Defenders Office Qld alongside Environmental Justice Australia are calling for the Department of Environment and Science to launch an investigation into the company's suitable operator status, and cancel or suspend Adani's suitable operator registration.

Cancellation or suspension would be grounds to revoke Adani's licence to dig the Carmichael coal mine.

EDO Qld's Jo Bragg and Environmental Justice Australia's Ariane Wilkinson are also calling for law reform that would take into account Adani's international track record.

Overseas, entities in the Adani Group have a concerning history of failures to comply with environmental laws. The Adani Group's global legal compliance record demonstrates numerous serious breaches with adverse consequences for the environment and local people.

Under Queensland's current environmental laws, none of this record is taken into account when assessing Adani for 'suitable operator' status.

**EDO Qld CEO and solicitor Jo-Anne Bragg said:**

"We congratulate the State Government for prosecuting Adani over the evidence supplied by our client that the company provided false and misleading information to the Environment Department.

"This is a very serious criminal offence that could result in fines of up to \$2,838,375. Adani is misleading the public by suggesting it's merely administrative.

"This wasn't an admin error and it wasn't self-reported. Our client caught Adani red-handed lying to the government.

“If convicted, this issue could potentially affect Adani’s ability to operate in Queensland, with the company’s suitable operator status likely to be called into question.

**Environmental Justice Australia Senior Lawyer Ariane Wilkinson said:**

“There’s a reason we have background checks in the law. It’s to manage risk and protect us all. Not taking into account a company’s environmental record in overseas jurisdictions, puts our air, water and wildlife at severe risk from companies like Adani with shocking environmental records overseas.”

**EDO Qld CEO and Solicitor Jo-Anne Bragg** will be available for comment at 9.30am Friday 20 September 2019 outside Brisbane Magistrates Court.

**Media contact**

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