

3 February 2021

Hon Meaghan Scanlon  
Minister for the Environment and the Great Barrier Reef  
Minister for Science and Youth Affairs  
By email only: [environment@ministerial.qld.gov.au](mailto:environment@ministerial.qld.gov.au)

Copied to

Whitsunday Regional Council  
Address: PO Box 104, Proserpine, QLD 4800  
By email only: [development.assessment@whitsundayrc.qld.gov.au](mailto:development.assessment@whitsundayrc.qld.gov.au)

Department of Natural Resources, Mines and Energy  
By email only: [WaterHub@dnrme.qld.gov.au](mailto:WaterHub@dnrme.qld.gov.au)

Dear Minister,

### **North Galilee Basin Rail Project flood mitigation and erosion and sediment controls**

We write on behalf of our client, Mackay Conservation Group, in relation to a potential breach of conditions of approval on the North Galilee Basin Rail Project (**NGBRP**).

Our client has been made aware of inadequate erosion and sediment control measures at several construction sites that are part of the NGBRP.

In light of the fact that there are still a number of months in which rainfall and flooding are likely, and therefore the environmental risks of poor site management are significantly higher, we ask that you urgently inspect all construction sites on the NGBRP. Sediment has a significant impact on the health of the Great Barrier Reef (**GBR**), and a project the size of the NGBRP in the GBR catchment has the potential to release a substantial quantity of sediment to the GBR, if not properly managed.

The Queensland Coordinator-General (**QCG**) noted as much in the evaluation of the NGBRP, stating “[e]rosion at waterway crossings, unless managed... may impact on water quality in waterways flowing to

the coast and entering the Caley Valley Wetland and GBR".<sup>1</sup> To minimise contamination of receiving waters, the QCG imposed conditions requiring the development *and implementation* of erosion and sediment control measures. In our view, these measures have not been complied with at a number of project locations.

Relevant conditions imposed by the QCG are as follows:

**Condition 6. Water Quality**

- (a) Contaminants must not be directly or indirectly released to waters unless authorised by a specific condition of this approval.

**Condition 7. Sediment and erosion control**

- (a) Measures must be implemented to minimise stormwater entry onto significantly disturbed land.
- (b) Sediment and erosion control measures to prevent soil loss and deposition beyond significantly disturbed land must be implemented and maintained.

The QCG also recommended that management measures and procedures include erosion and sediment control based on the International Erosion Control Association (Australasia) *Best Practice Erosion and Sediment Control*.

The proponent's own Construction Environmental Management Plans and Erosion and Sediment Control Plans make a number of commitments in relation to erosion and sediment controls and outcomes for the NGBRP.

However, photographs obtained by our client of works at three locations along the route, and at **Attachment A** to this letter, show that these mitigation measures are not being adhered to.

**Site 1**

Site 1 is at approximately GDA94 0579083 07643673, which is situated approximately halfway between chainage 203 and 204 of the NGBRP.

Aerial photographs of Site 1 dated 30 December 2020 show the NGBRP bisected by an unnamed flooded creek. The floodwaters are heavily sedimented, and there appears to be significant disturbance of the riparian area adjacent to the NGBRP works. Some sediment and erosion control measures are in place,

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<sup>1</sup> Queensland Coordinator General, (August 2014), *North Galilee Basin Rail project: Coordinator-General's evaluation report on the environmental impact statement*, available at <[https://www.statedevelopment.qld.gov.au/\\_\\_data/assets/pdf\\_file/0022/34087/ngbr-cg-eis-evaluation-report.pdf](https://www.statedevelopment.qld.gov.au/__data/assets/pdf_file/0022/34087/ngbr-cg-eis-evaluation-report.pdf)>, p 17.

however there is erosion of a portion of the works meeting the flooded creek. There do not appear to be storm-water detention measures to prevent runoff from the extensive works into the waterway.

## **Site 2**

Site 2 is at a crossing of Serpentine Creek, at approximately GDA94 0543153 07614240, which is approximately chainage 251 of the NGBRP.

Photographs of Site 2 dated 14 January 2021 show extensive flood damage and an evident lack of preparation of the site for the wet season, including:

- significant pooling of heavily sedimented water;
- destroyed or compromised and ineffective erosion and sediment control measures;
- erosion of banks and works;
- submerged construction fencing;
- heavily disturbed and unstabilised riparian areas;
- debris from flooding within the construction site, including branches and other vegetation, construction signage, fencing; and
- submerged in-creek works, with no visible bunds.

## **Site 3**

Site 3 is at approximately GDA94 0554262 07621365, which is approximately chainage 238 of the NGBRP

Photographs of Site 3 dated 14 January 2021 show (among other things):

- significant erosion of banks and works;
- pooling of heavily sedimented water;
- soil stockpiles with no visible erosion control measures; and
- heavily disturbed and unstabilised riparian areas.

To the extent the proponent seeks to rely on the riverine protection permit exemptions set out in *Riverine protection permit exemption requirements WSS/2013/726*, we draw to your attention the following relevant minimum requirements that must be met in order for an exemption to be available:

- sediment and erosion controls must be used;
- all areas of disturbed bed and banks must be stabilised to protect against erosion; and
- the extent of the area required to carry out the permitted activity must be limited to the minimum area necessary to reasonably carry out the works.

On the available photographic evidence, these minimum requirements are not being met and the exemption is therefore unlikely to be available for the works.

### **Management generally of the Carmichael project**

We note that the failure to properly implement erosion and sediment controls on the NGBRP is part of a pattern of behaviour on the part of the Adani Group, including Adani Mining Pty Ltd, a related entity of the NGRP proponent, Carmichael Rail Network Pty Ltd. We draw to your attention **Attachment B**, an independent report produced for Isaac Regional Council following a similar complaint made in June 2019 in relation to the NGBRP's sister project, the Carmichael Coal Mine and Rail Project, for which Adani Mining Pty Ltd is the proponent. This report concluded that the erosion and sediment controls in place were not sufficient appropriate for the site and were likely in breach of s 440ZG of the *Environmental Protection Act 1994*. Further information in relation to the disregard the Adani Group and associated entities have shown environmental regulations can be found in the report at **Attachment C**. In addition to the matters set out in that report, Adani Mining Pty Ltd was recently issued with two penalty infringement notices for breaching its federal environmental approval for the Carmichael Coal Mine and Rail Project.<sup>2</sup>

We request that the Department urgently inspect all works associated with the NGBRP and the Carmichael Coal Mine and Rail Project, and where non-compliances, unauthorised pollution of waters or other environmental harms are identified, to sanction responsible persons to the fullest extent of the law for the purposes of both specific and general deterrence, and in order to maintain the integrity of the regulatory framework.

### **Request to obtain copies of permits**

We understand that the work activities undertaken by the NGRP proponent at Sites 1-3 may have been authorised under a Riverine Protection Permit issued by the Department of Natural Resources, Mines and Energy, and under an Operational Works Permit issued by the Whitsunday Regional Council. Accordingly, we request a copy of these permits, and any other permits related to the proponent's activity at Sites 1-3, for our client's perusal.

We look forward to your prompt response to these issues, in light of the continuing wet season and therefore the continuing and imminent risk of further harm.

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<sup>2</sup> See Department of Agriculture, Water and the Environment, 'QLD mining company fined for breaching environmental approval conditions' (1 December 2020), available at <https://www.awe.gov.au/news/media-releases/qld-miningcompany-fined-breaching-environmental-approval-conditions>.

Yours sincerely,

Ariane Wilkinson

Senior Lawyer

**Attachment A: Environment Pollution Incident report prepared by Mackay Conservation Group**

**Attachment B: Independent Report prepared for Isaac Regional Council**

**Attachment C: Suitable scrutiny: Queensland's environmental law must be fixed so that there can be proper scrutiny of Adani Mining Pty Ltd's suitable operator status**