

24 June 2021

The Hon Sussan Ley  
Minister for the Environment  
Parliament House  
Canberra ACT 2600

By email: [sussan.ley.mp@aph.gov.au](mailto:sussan.ley.mp@aph.gov.au)

Dear Minister

### **New material relevant to the Request for Revocation of EPBC Approval No 2010/5736**

We write in relation to the above request for you to revoke approval of the Carmichael Coal Mine and Rail Infrastructure Project (the **Adani Project**) which our clients made on 22 October 2020.

We are grateful for recent updates from your Department confirming that a final decision on our request is in progress. The purpose of this letter is to bring further new information to your attention, which is directly relevant to your decision. We urge you to give genuine consideration to it as you finalise your decision.

### **Background**

Our clients, Ms Brooklyn O'Hearn and Ms Claire Galvin, are two young community leaders from Northern Queensland who know the ongoing health of the Great Barrier Reef is fundamental to community and personal prosperity and wellbeing, and is of vital environmental significance.

In making their revocation request, our clients provided you with independent, scientific evidence and analysis, which demonstrates that the Adani Project will have a devastating, if not wholly destructive, impact on the Great Barrier Reef and its economic value. It is beyond dispute that this impact would meet the threshold of a 'significant impact' under the *Environmental Protection Biodiversity Conservation Act 1999* (Cth) (the **Act**) and fulfil the requirements of s 145(2) of the Act.

As you would be aware, at the time of the original decision to approve the Adani Project, Minister Hunt expressly identified that, in his view, he had insufficient evidence to assess the impact of climate change on the Reef.

These matters are, to our clients' horror, no longer uncertain.

### **New and critical information relevant to your decision**

In addition to the expert material already available to you, our clients urge you to consider the below matters which are fundamental to your decision.

### **Crucial findings of a Chapter III Court**

First, we refer you to the following findings by the Federal Court of Australia in *Sharma v Minister for the Environment*.<sup>1</sup> Specifically:

- At 2°C of warming, 99% of coral reefs will be dead from severe bleaching; this means that the Great Barrier Reef will cease to exist as we know it today.<sup>2</sup>
- A 2°C future is, as the Court described it, a 'plausible scenario' and the least severe of those considered in the case.<sup>3</sup>
- The likelihood of a 2°C future is underwritten by three key assumptions, which were not challenged by your legal team in that proceeding, but reinforce in the most serious way that the action you take now is crucial to the Great Barrier Reef's protection:
  - The 2°C scenario is 'based on a linear relationship between future emissions of CO<sup>2</sup> from and increased average surface temperature'.<sup>4</sup>
  - No new coal mines... can be allowed.<sup>5</sup>
  - 90% of Australia's coal reserves cannot be burnt to be consistent with a 2°C future.<sup>6</sup>

These findings, combined with the existing evidence provided to you, demonstrate the stark reality that halting the progress of the Adani project is a critical and material step you can take towards diverting **away** from a 2°C future. It is a critical and material step you can take towards the ongoing preservation and brilliance of the Great Barrier Reef. By contrast, if the Adani project is permitted to continue, its progress will materially contribute to a 2°C future and the destruction of the Great Barrier Reef.

The current reality in which our client's make their request is unavoidably clear. In order to avoid the plausible scenario of a 2°C world in which the Great Barrier Reef 'ceases to exist as we know it today' **more than 90%** of Australia's coal reserves must remain in the ground. All steps must be taken, beyond merely avoiding further new approvals, to reduce the expected future emission of CO<sup>2</sup>. In this necessary effort, revocation of the Adani Project approval is a meaningful, crucial, contribution.

We refer you once more to our previous expert material, including expert opinion that even 'global warming of 1.5°C threatens, at the least, severe damage to the Outstanding Universal Value of the Great Barrier Reef'.<sup>7</sup>

### **UNESCO Draft Statement**

It is also clear that our clients' substantiated concerns about the Adani Project's impact on the Great Barrier Reef are shared by other major, expert bodies. We understand that on 6 August 2019, the World Heritage Centre sent

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<sup>1</sup> *Sharma by her litigation representative Sister Marie Brigid Arthur v Minister for the Environment* [2021] FCA 560.

<sup>2</sup> *Ibid* at [67].

<sup>3</sup> *Ibid* at [74].

<sup>4</sup> *Ibid* at [59].

<sup>5</sup> *Ibid* at [73].

<sup>6</sup> *Ibid* at [72].

<sup>7</sup> Independent Expert Report of Professor Bill Hare, 2 October 2020, 7 and 14.

a letter to the Australian government raising specific concerns about the approval of the Adani Project and its direct impact on the Great Barrier Reef.

You will also be aware that on 21 June 2022, the World Heritage Committee of the United Nations Educational, Scientific and Cultural Organization (**UNESCO**) recommended that the Great Barrier Reef be inscribed on the List of World Heritage in Danger. Climate change was identified as the greatest threat to the Reef, with the target of 1.5°C warming recognised by the Committee (and by Australia in its reporting) as a 'critical threshold for the property'.<sup>8</sup>

As we have already identified above, UNESCO also recognised that more is required from Australia to meet its clear commitments to address threats from climate change, in conformity with the goals of the 2015 Paris Agreement.<sup>9</sup> Further, the Committee has called with the utmost urgency upon Australia (along with all States Parties and the international community) to implement the most ambitious actions to address climate change to meet their obligations to the World Heritage Convention and fulfil their responsibility to protect the Great Barrier Reef.

Revocation of the Adani Project is an available, sensible measure for you to take to ensure the ongoing preservation and brilliance of the Great Barrier Reef.

### **Your powers**

The Great Barrier Reef is the product of immense natural processes over long timescales. It has an immeasurable value of itself, and to humankind.

As Minister for the Environment, you hold an office that gives you power to protect it — really protect it from the human processes that the evidence before you shows will otherwise destroy it. With that power comes a profound responsibility.

Our clients know the Great Barrier Reef matters, beyond the politics and pressing desires and imperatives of the present generation. They ask you to please consider carefully what you will do.

We look forward to your decision on our clients' request.

Yours faithfully,



Hollie Kerwin  
Senior Specialist Lawyer

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<sup>8</sup> WHC/21/44.COM/7B.Add, 84.

<sup>9</sup> WHC/21/44.COM/7B.Add, 85.