



Our reference: EPBC 2010/5736
Email: EPBCmonitoring@awe.gov.au

s. 47F(1)

s.47F(1)

Adani Mining Pty Ltd

s. 47F(1)

Townsville QLD 4810

Dear **s. 47F(1)**

Potential Breach of Approval Conditions Attached to EPBC 2010/5736

I am writing to you in relation to the Carmichael Coal Mine and Rail Infrastructure project, which was approved on 14 October 2015 under the *Environment Protection and Biodiversity Conservation Act 1999*¹ (EPBC Act), with 36 conditions (EPBC 2010/5736).

The Department of Agriculture, Water and the Environment (the Department) has become aware of a potential contravention of a condition attached to the approval, specifically, condition 7.

Condition 7 requires the approval holder implement the approved Matters of National Environmental Significance Management Plans (MNESPM). On 20 July 2016 the Department approved the 'Eco Logical Australia 2015 - Species Management Plan Carmichael Rail Network – SP1'.

Section 5.4 of the plan requires the following: '*Confirm and identify the spatial extent and condition of threatened species habitat to be disturbed, within 12 months prior to any clearing or disturbance commencing, through pre-clearance surveys, focusing on species that were not detected during field surveys for the EIS*'.

s.47G(1)(B); s.47E(d); s. 37(2)(b)

s. 37(2)(b)

¹ The EPBC Act is available on line at: <http://www.environment.gov.au/epbc/about/index.html>.

s. 37(2)(b)

S. 37(2)(b)

Section 142 of the EPBC Act requires an approval holder to comply with conditions attached to an approval. Penalties may apply to approval holders who contravene conditions. The information supplied to the Department will be used to assist the Department in determining if the approval conditions have been met, and what enforcement measures may apply, if any.

Please be aware that the EPBC Act places a duty upon persons to provide accurate information in response to a requirement of the Act. You may choose not to supply information. You may choose to obtain independent legal advice in relation to any concerns you may have relating to potential non-compliance with the Act.

Please submit your response by email to EPBCmonitoring@awe.gov.au within two weeks of the date of this letter.

For further information relating to this matter please contact me at the above email address.

Yours sincerely

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Assistant Director (a/g)
Environmental Audit Section

5 June 2020

Our reference: 2010/5736

Email: EPBCmonitoring@environment.gov.au

s. 47F(1)

s.47F(1)

Adani Mining Pty Ltd
Level 8, 7-13 Tomlins Street
Townsville QLD 4810

Dear s. 47F(1)

Environment Protection and Biodiversity Conservation Act 1999

Carmichael Coal Mine and Rail Infrastructure Project, Queensland (EPBC 2010/5736)

As discussed on 7 July 2020, the Department is seeking clarification of information provided by Adani Mining Pty Ltd in letters of 1 June 2015, 11 May 2020 and 26 May 2020 in relation to the Carmichael Coal Mine and Rail Infrastructure Project, Queensland (EPBC 2010/5736).

Please provide clarification regarding the *Species Management Plan – Carmichael Rail Network – SP1* approved by the delegate for the Minister on 20 July 2016, and compliance with conditions 5, 6 and 7 of the EPBC 2010/5736 approval.

Condition 5 of the approval requires that the approval holder must submit to the Minister for approval, matters of national environmental significance plan/s for the management of direct and indirect impacts of mining operations. The requirements of condition 6 must be included in the management plans. Condition 7 of the approval requires that the approved plans must be implemented. s. 37(2)(b)

The letters are attached for your consideration.

The information supplied to the Department will be used in determining if approval conditions have been met, and what enforcement measures may apply, if any.

Please note that Section 491 of the *Environment Protection and Biodiversity Conservation Act 1999* makes it an offence in certain circumstances to knowingly provide false or misleading information or documents to specified persons who are known to be performing a duty or carrying out a function under the Act or the regulations. You may choose to obtain independent legal advice in relation to any concerns you may have relating to potential non-compliance of the Act.

Please submit your response by email to EPBCmonitoring@environment.gov.au within two weeks of the date of this letter. For further information relating to this matter please call me on s. 22(1)(a)(ii) or the contact officer s. 22(1)(a)(ii) on s. 22(1)(a)(ii)

Yours sincerely
s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Ag Director
Environmental Audit

9 July 2020



Received
09/06/2015.
s. 22(1)(a)(
ii)
s. 22(1)(
a)(ii)

1 June 2015

s. 22(1)(a)(ii)

Director, Compliance & Enforcement Branch
Environment Assessment & Compliance Division
Department of Environment
GPO Box 787
Canberra ACT 2601

Matters of National Environmental Significance Management Plans
Carmichael Coal Mine and Rail Infrastructure Project, Queensland (EPBC
2010/5736)
North Galilee Basin Rail Project, Abbot Point to Galilee Basin, Queensland
(EPBC 2013/6885)

Dear s. 22(1)(a)(ii) ,

As you are aware, the Commonwealth Minister for the *Environment Protection and Biodiversity Conservation Act 1999* granted approval on 24th July 2014 for Adani Mining Pty Ltd's (Adani) Carmichael Coal Mine and Rail Project (the Carmichael Project), subject to conditions (EPBC 2010/5736).

On 23 September 2014, the same Commonwealth Minister granted approval to Adani for the North Galilee Basin Rail Project (NGBR), also subject to conditions (EPBC 2013/6885).

The Queensland Coordinator-General determined on 7 May 2014 that the Carmichael Project could "proceed subject to conditions" in the *Carmichael Coal Mine and Rail project: Coordinator-General's evaluation report on the environmental impact statement*. On 12 August 2014, the Queensland

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Coordinator-General also determined that NGBR could "proceed subject to conditions" in the *North Galilee Basin Rail Project: Coordinator-General's evaluation report on the environmental impact statement*.

Each of the approvals requires Adani to develop species management plans.

s. 47E(d)

s. 47G(1)(b); s. 47E(d)

If you have any questions, please do not hesitate to contact **s. 47F(1)** on telephone number (07) 32234800 or via email at **s. 47F(1)** [@adani.in](mailto:s.47f(1)@adani.in).

Yours sincerely

s. 47F(1)

s. 47F(1),
s.47F(1)



23 July 2020

**STRICTLY CONFIDENTIAL
COMMERCIAL IN CONFIDENCE
EXEMPT FROM DISCLOSURE UNDER THE FOI ACT
BY EMAIL**

s. 22(1)(a)(ii)

A/g Director
Environmental Audit
Department of Agriculture, Water and the Environment
EPBCmonitoring@environment.gov.au

Dear s. 22(1)(a)(ii)

Carmichael Coal Mine and Rail Infrastructure Project, Queensland (EPBC 2010/5736)

Thank you for your letter dated 9 July 2020.

Please note, this correspondence including its enclosures is strictly confidential and comprises commercial in confidence information, and as such, is exempt from disclosure under the *Freedom of Information Act 1982* (Cth). It is provided to the Department on the understanding that it will be kept confidential, and that the Department will not disclose this letter or its contents to any third party without our prior written consent.

s. 47G(1)(b); s. 47E(d)

Condition 5 of the Approval states (emphasis added):

At least three months prior to commencement of mining operations, the approval holder must submit to the Minister for approval Matters of National Environmental Significance plan/s **for the management of direct and indirect impacts of mining operations on MNES**.

It is clear from the above that the only plans required by condition 5 are plans for the management of the impacts of "mining operations". The term "mining operations" is defined on page 19 of the Approval as (emphasis added):

... the **extraction of ore from the ground as well as any immediately associated activities**, including initial clearing of vegetation, removal and storage of overburden, storage of ore and

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dewatering, **but not including** exploratory surveys or **the construction or operation of transport**, accommodation or power generation **infrastructure**.

Condition 6 identifies the content requirements for the plans required by condition 5, and condition 7 states (emphasis added):

Mining operations must not commence until the required MNESMP have been approved by the Minister in writing. **The approved plan/s must be implemented.**

s.47G(1)(a); s. 47G(1)(b); s. 47E(d)

If you require any additional information, please do not hesitate to contact **s. 47F(1)** **s.47F(1)** at **s. 47F(1)** [@adani.com.au](mailto:s.47F(1)@adani.com.au).

S. ...
s.47F(1)

Encl.

Our reference: EPBC 2010/5736
Email: EPBCmonitoring@awe.gov.au

s. 47F(1)

s.47F(1)

Adani Mining Pty Ltd
Level 8, 7-13 Tomlins Street
Townsville QLD 4810

Dear s. 47F(1)

Environment Protection and Biodiversity Conservation Act 1999
Carmichael Coal Mine and Rail Infrastructure Project, Queensland (EPBC 2010/5736)

As discussed on 3 September 2020, the Department is seeking that Adani clarify the information provided in letters of 26 June 2020 and 23 July 2020 in relation to the Carmichael Coal Mine and Rail Infrastructure Project, Queensland (EPBC 2010/5736). The Letters are attached for your convenience.

s. 37(2)(b)

The information supplied to the Department will be used in determining if approval conditions have been met, and what enforcement measures may apply, if any.

Please note that Section 491 of the *Environment Protection and Biodiversity Conservation Act 1999* makes it an offence in certain circumstances to knowingly provide false or misleading information or documents to specified persons who are known to be performing a duty or carrying out a function under the Act or the regulations. You may choose to obtain independent legal advice in relation to any concerns you may have relating to potential non-compliance of the Act.

Please submit your response by email to EPBCmonitoring@awe.gov.au within two weeks of the date of this letter. For further information relating to this matter please call me on s. 22(1)(a)(ii) .

Yours sincerely

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

A/g Assistant Director
Environmental Audit
9 September 2020



Our reference: EPBC 2010/5736
Email: EPBCmonitoring@awe.gov.au

s. 47F(1)

s.47F(1)

Adani Mining Pty Ltd
Level 8, 7-13 Tomlins Street
Townsville QLD 4810

Dear s. 47F(1) ,

Potential Breach of Approval Conditions Attached to EPBC 2010/5736

I am writing to you in relation to the Carmichael Coal Mine and Rail Infrastructure project, which was approved on 14 October 2015 under the *Environment Protection and Biodiversity Conservation Act 1999*¹ (EPBC Act), with 36 conditions (EPBC 2010/5736).

The Department of Agriculture, Water and the Environment (the Department) has become aware of a potential contravention of a condition attached to the approval, specifically, condition 7.

Condition 7 requires the approval holder to implement approved Matters of National Environmental Significance Management Plans (MNESPM). On 20 July 2016 the Department approved the 'Eco Logical Australia 2015 - Species Management Plan Carmichael Rail Network – SP1 (the plan)'.

Sections 8.1.5, 8.3.5, 8.6.5, 8.8.5 and 8.9.5 of the plan requires that:

'Pre-clearance surveys will be undertaken at suitable times to detect the species and identify and map suitable habitat in the development area, prior to any clearing or associated works occurring. The surveys will target suitable habitat for this species within and directly adjacent to the Project Area. This Management Plan must be revised and submitted to DoE within three months following pre-clearance surveys.'

s. 37(2)(b)

¹ The EPBC Act is available on line at: <http://www.environment.gov.au/epbc/about/index.html>.

Section 142 of the EPBC Act requires an approval holder to comply with conditions attached to an approval. Penalties may apply to approval holders who contravene conditions. The information supplied to the Department will be used to assist the Department in determining if the approval conditions have been met, and what enforcement measures may apply, if any.

Please be aware that the EPBC Act places a duty upon persons to provide accurate information in response to a requirement of the Act. You may choose not to supply information. You may choose to obtain independent legal advice in relation to any concerns you may have relating to potential non-compliance with the Act.

Please submit your response by email to EPBCmonitoring@awe.gov.au within two weeks of the date of this letter.

For further information relating to this matter please contact me at the above email address.

Yours sincerely

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

A/g Assistant Director
Environmental Audit Section

9 September 2020

18 September 2020

s. 22(1)(a)(ii)

A/ Assistant Director
Department of Agriculture, Water and the Environment
By email: EPBCmonitoring@awe.gov.au

**RE Correspondence on the Carmichael Coal Mine and Rail Project (EPBC
2010/5736)**

s. 22(1)(a)(ii)
Dear

Please note, this correspondence including its enclosures is strictly confidential and comprises commercial in confidence information, and as such, is exempt from disclosure under the *Freedom of Information Act 1982* (Cth). It is provided to the Department on the understanding that it will be kept confidential, and that the Department will not disclose this letter or its contents to any third party without our prior written consent.

S. 47E(d)

s. 47G(1)(b); s. 47E(d)

s. 47G(1)(b); s. 47E(d)

If you have any questions, please do not hesitate to contact me.

Yours sincerely

s. 47F(1)

s. 47F(1)

s.47F(1)

23 September 2020

s. 22(1)(a)(ii)

A/ Assistant Director
Department of Agriculture, Water and the Environment
EPBCmonitoring@awe.gov.au

RE Correspondence on the Carmichael Coal Mine and Rail Project (EPBC 2010/5736)

s. 22(1)(a)(ii)
Dear

Please note, this correspondence including its enclosures is strictly confidential and comprises commercial in confidence information, and as such, is exempt from disclosure under the *Freedom of Information Act 1982* (Cth). It is provided to the Department on the understanding that it will be kept confidential, and that the Department will not disclose this letter or its contents to any third party without our prior written consent.

The purpose of this correspondence is to respond to the second of your letters dated the 9th September 2020 in regards a potential breach of approval conditions attached to the Carmichael Coal Mine and Rail Project (EPBC 2010/5736) (the Project).

s. 47G(1)(b); s. 47E(d)

Specifically:

s. 47G(1)(b); s. 47E(d)

STRICTLY CONFIDENTIAL
COMMERCIAL IN CONFIDENCE
EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT 1982

s. 47G(1)(b); s. 47E(d)

s. 47E(d)

s. 47G(1)(b); s. 47E(d)

s. 47G(1)(b); s. 47E(d)

s. 47E(d); s. 47G(1)(b)

STRICTLY CONFIDENTIAL
COMMERCIAL IN CONFIDENCE
EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT 1982

s. 47E(d); s. 47G(1)(b)

If you have any questions, please do not hesitate to contact me.

Yours sincerely

s. 47F(1)

s. 47F(1)

s.47F(1)



Contact Officer: s 22(1)(a)(ii)
Telephone: s 22(1)(a)(ii)
Email: EPBCmonitoring@environment.gov.au

Our reference: s 47E(d)

s 47F(1)

Adani Mining Pty Ltd
s 47F(1)

Dears s 47F(1)

Contravention of *Environment Protection and Biodiversity Conservation Act 1999* for EPBC 2010/5736

As you are aware the Department of the Environment and Energy (the Department) has been conducting inquiries into a potential contravention of section 142 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act); specifically a potential breach of conditions attached to the Carmichael Coal Mine and Rail Infrastructure Project, EPBC 2010/5736.

s 47E(d)

You responded to the Department's letter on 12 September 2019.

s 47E(d)

In this instance I consider that an appropriate response is a warning for contravening section 142 of the EPBC Act. The Department expects Adani to comply with all of the conditions

¹ The policy is available at <https://www.environment.gov.au/about-us/publications/compliance-policy>

attached to its approval, the penalties for contravening conditions of approval are up to \$2,100,000. The Department may take this warning into account when determining an appropriate compliance or enforcement response to future contraventions of the EPBC Act.

s 47E(d)

Should you have any questions please contact s 22(1)(a)(ii)

Yours sincerely

s 22(1)(a)(ii)

Director
Environmental Audit Section
Office of Compliance

14/11 / 2019

Contact Officer: s 22(1)(a)(ii)
Telephone: s 22(1)(a)(ii)
Email: EPBCmonitoring@environment.gov.au

Our reference: s 47E(d)

s 47F(1)

Adani Mining Pty Ltd
Email: s 47F(1)

Dear s 47F(1)

Contravention of the *Environment Protection and Biodiversity Conservation Act 1999* for EPBC 2010/5736

As you are aware the Department of Agriculture, Water and the Environment (the Department) has been conducting inquiries into a potential contravention of section 142 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act); specifically a potential breach of conditions attached to the Carmichael coal mine and rail infrastructure project, EPBC 2010/5736.

s 47E(d)

Section 142 of the EPBC Act requires an approval holder to comply with conditions attached to an approval, with penalties for contravening conditions of approval up to \$2,100,000. As an alternative to prosecution, the Department may choose to pursue a range of civil or administrative measures such as Infringement Notices of up to \$12,600 for each contravention, directed variations to conditions, or directed audits.

Based on the available information I am satisfied there is sufficient evidence that Section 142 of the EPBC Act has been contravened. In this instance the Department has determined that an appropriate response is to issue Adani Mining Pty Ltd a warning. The Department has recorded the contravention of section 142 of the EPBC Act. In determining an appropriate compliance or enforcement response to future contraventions of the EPBC Act, the Department may take this warning into account.

s 47E (d)

I have also taken the Department's EPBC Act Compliance Policy¹ into consideration.

Should you have any questions please contact s 22(1)(a)(ii) (contact details above).

s 22(1)(a)(ii)

Assistant Director (a/g)
Environmental Audit Section
Environmental Compliance Branch

6 March 2020

¹ The policy is available at <https://www.environment.gov.au/about-us/publications/compliance-policy>