

Evaluation of the Adani Project ~ A Need for Review?
***Resolving Public Interest Environmental Conflicts:
The Scientific Roundtable ~ A More Effective Role for Science***

Dr Ted Christie, 09 July 2019



Disclosure Statement

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Background to the Series of Articles:

After almost nine years, nine legal reviews and \$3.7 billion in "start-up" costs, the 'Adani Carmichael Coal Mine and Rail Project' in the Galilee Basin, Queensland, Australia was finally given approval by the Queensland Government in June 2019.

An open-cut and underground coal mine project yielding up to 60 million tonnes per annum, it will be one of the largest mines in the world.

The question is why it has taken almost nine years of planning and evaluation before approval was given. Could similar problems of conflict and delay occur for future development proposals?

Clearly, some form of objective review of the environmental evaluation and approval processes for Adani is warranted to offset this concern; and to revise and update these processes, as required, to avoid history repeating.

The series of articles that follow address the scientific and public interest concerns that were ignited over time, which proved to be problematic for the Adani project; and provides objective conclusions to consider for a meaningful review.

INTRODUCTION:

Environmental problems have sometimes been described by analogy to water continually flowing out of a shower faucet.

Control resides at the shower tap.

The traditional role of science for resolving environmental problems has been to mop up the puddles on the shower floor by undertaking research into the nature of the problem — but to have little direct control in resolving conflict.

Politicians (as well as lawyers), in contrast to scientists, have had almost complete control for resolving public interest environmental conflicts.

*The challenge is how best
to provide a more effective and direct role for science
to resolve information conflicts
in public interest environmental conflicts
when approvals are sought under environmental legislation.*

Finding a solution for science to have an effective role in environmental dispute resolution requires an understanding of the central aim of each stage for problem-solving in public interest environmental conflicts.

Specifically, the need to recognise that the conflict management is the stage where science should have a dominant role to facilitate the integrity of the decision-making process in the final stage - conflict resolution:

1. Conflict Assessment



2. Conflict Management



3. Conflict Resolution

CONFLICT ASSESSMENT: Environmental Assessment & Public Participation

The first stage commences with the proponent seeking environmental approval for a proposed development. The response of Government is to link the form of the environmental assessment required under regulatory control to

the significance of the potential environmental impacts of the development proposal. Preparing an EIS will be one of the regulatory options considered.

Following the completion and publication of the environmental assessment, Government will commence some form of consultation or public participation process to involve the community. Comment sought on the proposed development is based on a two-way process of information exchange between Government and the community.

*However, the views expressed in the submissions
from the community
are not binding on Government
in decision-making at the conflict resolution stage.*

One outcome of the public participation process is to enable a preliminary scoping exercise to be undertaken by Government: The identification of the issues in dispute and ranking them in order of priority; as well as identifying issues where common ground on issues exists.

CONFLICT MANAGEMENT: *The Scientific Roundtable*

Conflict management is crucial for resolving conflicts over scientific information; as well as the foundation for the scientific information that will be applied to facilitate decision-making in the final stage - ***conflict resolution***.

One approach taken by Government to review disputed factual issues for some controversial environmental conflict in Australia, has been to rely on constituting panels of independent scientific experts on an ad hoc basis – as was the case for Adani. Lawyer-led Royal Commissions or Commissions of Inquiry are also options.

*But, the findings and recommendations
arising from all these alternatives
are not binding on Government*

But there is an alternative model which can be distinguished from these models for managing conflicts over scientific information.

A model that has its framework built on the fact that environmental disputes involve multiple competing interests over the use of natural resources—*community, development and environment*.

The cornerstone for this model is the requirement for ***shared responsibility and joint action*** to resolve the environmental problems created by conflicts over scientific information – and in a way that leads to a sense of ownership in the outcomes.

The approach taken is to meaningfully involve the scientific experts of Government and competing natural resource interests in the process.

The model is the Scientific Roundtable.

The scientific roundtable is a structured process for evaluating and resolving divergent viewpoints on scientific and technical issues in environmental conflicts.

*The purpose of the scientific round table
is for the scientific experts
to reach agreement by consensus
for each disputed factual issue
identified in the scoping exercise*

It has been developed and used by the author for managing information conflicts, where conflict resolution is undertaken, external to and independent of the courts.

Principles and concepts from conflict management and alternative dispute resolution (“ADR”) processes are applied to provide the framework for the scientific roundtable.

The representatives at the scientific roundtable are a panel of scientific professionals, having expertise in the subject matter of the conflict. The scientific experts would be nominated by each specific natural resource interest group to act for and to represent them.

The key issues in dispute, plus any common ground, that were identified in the conflict assessment stage by Government would be reviewed by the scientific roundtable experts; then revised as appropriate, prioritised and

endorsed to become the agreed list of issues; and so the focus for the next phase of conflict management.

Outcomes from the Scientific Roundtable

Outcomes include: -

- *Conclusions on disputed issues where agreement is consistent with all relevant and reliable scientific data and/or scientific opinion;*
- *Where agreement cannot be reached by the experts on a disputed issue the non-binding opinion of the dispute resolver – the scientific/ADR expert who convenes the round-table - would be provided;*
- *Areas of scientific uncertainty for a specific issue, including where there is a lack of information, must be identified – especially where it would lead to conclusions being seen as speculation; and*
- *A number of alternative pathways may be suggested where the available scientific information associated with a specific issue in dispute is either uncertain, incomplete or unavailable...*

CONFLICT RESOLUTION: Government the Ultimate Decision-Maker

The final stage is a collaborative process of problem-solving by Government agencies responsible for the regulatory control of the developmental project.

Factual issues would not in dispute for resolving conflict at this stage: The foundations for conflict resolution are built on the scientific roundtable outcomes and conflict management.

Decision-making at this stage for resolving public interest environmental conflicts needs to resonate with the following incisive observations:

“How can we best resolve issues of major controversy between groups holding opposing, yet sincerely held, opinions in ways that most nearly satisfy the principles of the democratic ordeal ... solutions from which all parties can emerge with some sense of gain and certainly with the knowledge that their views have properly been taken into account by the ultimate decision-maker.....where responsibilities are to the general public interest and not merely to a sectional group”.

Former Governor-General of Australia, William Hayden (1991)

CONCLUSION: Issue for Review

For Government to consider adopting the scientific roundtable as the preferred model for resolving information conflicts that create public interest environmental disputes. The following advantages would accrue: -

- i. A collaborative joint fact-finding approach at the scientific roundtable based on the use of a *common database of the relevant and reliable science* to address the factual issues in dispute that had been identified by the experts at the scientific roundtable.
- ii. The evaluation of disputed issues based on *shared responsibility and joint action* by the experts at the scientific roundtable using the *objective criteria* they had prepared.
- iii. An *adequate basis of power* for all competing natural resource interests to *effectively participate* in resolving information conflicts at the scientific roundtable.
- iv. The outcomes of the scientific roundtable process ensure a *full and fair disclosure and evaluation of all relevant and reliable scientific information* that are the foundation for finding solutions at the final stage – conflict resolution.
- v. The conflict resolution stage would proceed in the knowledge that *information conflicts were resolved at the roundtable*.