

## **MEDIA STATEMENT**

**Thursday, 16 December 2021**

### **Supreme court orders anti-coal activist Ben Pennings to disclose documents, with trial likely in 2022**

**Please attribute the below to an Adani Australia spokesperson:**

*"The Supreme Court today ruled in favour of Adani in the ongoing legal proceedings against anti-coal activist Ben Pennings.*

*"In a win for Adani, Justice Peter Callaghan ruled that Mr Pennings must hand over material he has collected in his unlawful anti-Adani campaign over the best part of the last 10 years, to assist in the preparation for trial which is expected to be held in 2022.*

*"The court will assess in early 2022 how much of Adani legal costs Mr Pennings must pay for this properly bought application on top of the 60% of costs he has already been ordered to pay for an application earlier this year.*

*"Today's ruling is part of the civil legal proceedings that Adani has brought against anti-fossil fuel activist Mr Ben Pennings to enforce our rights, and allow our employees and contractors to carry out legal and legitimate business activities free from intimidation and harassment, continue.*

*"We allege Mr Pennings has orchestrated a sustained campaign of harassment and intimidation against Adani's business, employees, contractors and potential business partners spanning almost a decade.*

*"Mr Pennings has stated publicly on various occasions that he has information about our business which he obtained as part of his 'Dob in a Contractor' campaign, and we allege he has used this information to undertake harassment and intimidation of our employees and contractors.*

*"This legal action does not seek to limit free speech. As we have repeatedly stated, we believe a diversity of views is an important part of democracy.*

**ENDS**

**Editor's Note:**

[Background to the civil legal proceedings brought by Adani against Mr Pennings](#)

- Adani is alleging that Mr Pennings has been instrumental in organising blockades and the occupation of offices and industrial premises of many of our existing and potential suppliers, as well as some organisations that have absolutely no association with Adani.
- We claim that he has caused distress to workers whose offices he has entered and he has used intimidation in an attempt to force meetings with executives.
- He has live-streamed video of our employees and our contractors and used their images without their consent or knowledge across social media channels in an alleged attempt to belittle and intimidate them.
- Construction of the Carmichael Mine and Rail project commenced in June 2019 and works are continuing in line with COVID-19 restrictions.
- Throughout the construction phase of the project, activists have repeatedly sought to disrupt our operations, blockading entry and exit points to our mine camp and access roads.

#### **Further background on the legal action by Adani against Mr Pennings**

This document summarises the legal nature of the case that Adani has initiated.

##### **1. The underlying Adani case.**

The underlying case against Mr Pennings is not to do with freedom of speech, or “activism”.

The case pursues Mr Pennings, and potentially some of his associates, for the commission of multiple torts against Adani. Chief among them are:

- a. Trespass on land;
- b. Trespass against goods;
- c. Inducing breach of contract;
- d. Tort of intimidation;

All of these causes of action are founded in common law and are available to us. Adani is not attempting to create “new law” in this action.

Mr Pennings will have the opportunity to defend every claim put forward by Adani.

##### **2. Remedy**

Adani is seeking compensation for the loss arising from the torts listed above.

Adani is also seeking permanent injunctions against Mr Pennings and any of his associates who have been involved in tortious activities against Adani. The injunctions do not in any way seek to inhibit speech or “activism”, for so long as those activities do not constitute torts against Adani’s activities in the future.

July 2021, Supreme Court ordered Mr Pennings to pay Adani’s costs

- In July the Supreme Court ordered Mr Pennings to pay 60% of Adani's legal costs after he unsuccessfully sought to gain access to our confidential information. Adani was not required to pay any of Mr Pennings' costs. This decision meant Mr Pennings did not receive access to contractors' confidential information, but would instead be provided redacted, restricted and supervised access to limited parts of our documentation. This was expressly what we had asked the Court to order.
- In September 2019, Mr Pennings was reported in an online news article published by the Australian Broadcasting Corporation as follows:
  - "Ben Pennings from Galilee Blockade said they now had almost "too much information" from insiders after their "dob in a contractor" campaign.
  - "They're telling us about which companies are bidding for Adani work, they're telling us about Adani sites, but they're also telling us really sensitive stuff which, for want of a better word, is 'where the bodies are buried'," he said.
  - "We're getting information about industrial sites, how companies can be affected, what they're favourite sponsorships are, about their venues, what their brands are that they care about, where they're most easily convinced."
  - Mr Pennings said the number of people giving activists information had been "refreshing".
  - "We know all sorts of information, because people who work for these companies have been brave enough and concerned citizens," he said.
  - "We know who is bidding for the PE pipeline for Adani's mine, who wants to dig the pipeline, and put it towards the dewatering dam, who's going to be doing the box cut for the mine."
  - "We're going to let those companies know that we've got the information and we expect them to get out of bed with Adani," Mr Pennings said."
- The full decision on Mr Pennings' receiving restricted access to information can be read via the following link. Key paragraphs are: 72, 74 and 89.  
<https://www.sclqld.org.au/caselaw/QSC/2021/162>

(ENDS)