

Coalition to change native title laws to protect mining and agriculture deals

George Brandis announces bill to reverse court ruling that threw land use agreements thrown into doubt, including deal between Adani and Indigenous owners



Attorney general George Brandis wants to reverse the effect of a federal court decision which found that Indigenous land use agreements were invalid unless endorsed by all representatives in a native title claim. Photograph: Mick Tsikas/AAP

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13 February 2017

The Turnbull government will change native title laws to protect land use agreements thrown into doubt by a recent court ruling, including a controversial deal between Adani and traditional owners of its proposed Queensland mine site.

The attorney general, George Brandis, told parliament on Monday the government would introduce an “urgent” bill to reverse the effect of a federal court decision regarding the Noongar people of Western Australia on 2 February.

That decision by the full court of the federal court found that Indigenous land use agreements (ILUAs) – which underpin mining, agriculture or infrastructure projects – were invalid unless endorsed by all representatives in a native title claim.

It set a precedent that Wangan and Jagalingou (W&J) opponents of the Carmichael mine in Queensland have used to further challenge a crucial deal that Adani signed with seven of 12 of the group's native title claimants.

Brandis said the decision regarding the Noongar had been "a very significant development in the law".

"It had not been anticipated," he said.

The Queensland premier, Annastacia Palaszczuk, had "called upon" her counterparts in the Labor federal opposition to back the amendments, Brandis said.

Brandis had arranged the shadow attorney general, Mark Dreyfuss, to be briefed on the matter last week.

The proposed laws come after the mining industry, some lawyers and Australia's largest native title representative body expressed concerns that hundreds of projects providing income to traditional owners were in jeopardy.

Brandis said the draft legislation would be ready by as early as Monday afternoon.

The announcement came on the same day W&J opponents lodged a fresh federal court action to strike down the Adani deal.

The prime minister, Malcolm Turnbull, had last week authorised the introduction of "urgent legislation to legislatively reverse the effect" of the WA decision, Brandis said.

It would restore the previous legal "status quo" established by the Bygraves decision of 2010, that majority decisions by a claimant group guaranteed a deal, he said.

Brandis said the laws would uphold not only 123 ILUAs currently registered with the National Native Title Tribunal, but also agreements that were not yet registered.

Adani has applied to the tribunal to register its ILUA, which represents the traditional owner consent it needs to gain funding from most international financiers.

The National Native Title Tribunal announced it was reviewing the impact of the ruling on existing ILUAs.