

## Labor to support native title changes to protect mining deals

*Move angers traditional owners fighting Adani's Carmichael mine, who accuse Labor of 'lining up with the government' and industry to wind back their rights*



*Under planned amendments to the Native Title Act, mining projects already in operation under Indigenous land use agreements will not be affected by last month's federal court's ruling.*

Gareth Hutchens  
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Labor will support the Turnbull government's move to amend the Native Title Act following a shock federal court decision striking out a native title deal in Western Australia last month.

It means mining projects – including Adani's Carmichael coalmine – already in operation under Indigenous land use agreements (ILUAs) may not be affected by the federal court's ruling.

The news has angered Wangan and Jagalingou traditional owners fighting Adani's mine. They have accused Labor of "lining up with the government" to wind back their rights.

The federal court last month overturned a legal precedent set in 2010 that formed the basis for ILUAs across Australia between traditional owner groups and mining companies, pastoralists and governments of all levels.

ILUAs allow certain activities to be undertaken on land or waters, such as mining, or provide access to an area, in exchange for compensation to native title groups.

Under the 2010 legal precedent, an ILUA does not need to have all claim group representatives on board if the majority of the broader clan or claim group voted in support.

But last month the federal court ruled that an ILUA in Western Australia was invalid because not all Indigenous representatives had signed it.

The ruling sent shockwaves through the mining industry, putting in doubt large-scale mining projects that rely on ILUAs signed only by a majority of a claim group.

The Turnbull government has moved quickly to amend the Native Title Act to ensure all pre-existing ILUAs are still enforceable. On Monday the legal and constitutional affairs legislation committee recommended the required amendments be made.

Labor has now confirmed it will support parts of the government's bill that are required to restore the legal status quo that existed prior to the federal court's ruling, ensuring passage of the amendments through the Senate.

But it will not support provisions in the bill that are unnecessary, including the government's proposed amendments to sections 251A and 251B of the Native Title Act, and item 11 of the bill. The legal and constitutional affairs legislation committee agrees that those provisions are unnecessary, too.

Labor will push to have those provisions removed from the bill through negotiation with the government or through amendments in the Senate.

Labor's position was brought forward in the caucus room on Tuesday by the shadow attorney general, Mark Dreyfus, and the Indigenous MP Patrick Dodson. It is understood Dodson argued that the ILUA process of seeking majority support from members of a claim group must remain intact.

Dreyfus told caucus that Labor needed to be very clear that its position was about native title, and the law's impact on traditional owners, rather than the future prospects of mining projects.

The Labor leader, Bill Shorten, said a joint standing committee should be regularly looking at the ILUA process, and he put on notice that Labor would deal with that question formally at their next caucus meeting.

The independent senator Nick Xenophon told Guardian Australia he was "very surprised" with Labor's position.

Adrian Burragubba, from the Wangan and Jagalingou Traditional Owners Council, said Labor had swallowed the arguments of the mining and agricultural lobby that there was a crisis that needed an urgent response.

“Hiding behind the argument that these changes are small and technical is a ruse,” he said. “The consequences of this bill are profound and adverse, affecting not just us, but Aboriginal people around the country and our future generations.

“By pushing this bill through, the Coalition and Labor are attacking the integrity of our decision-making, and our rights to self-determination.”

Opponents of Adani Carmichael coalmine within the Wangan and Jagalingou people have alleged a disputed vote in support of a land use deal in April was stacked with people who were not even members of the Indigenous land claim group.

But the Minerals Council of Australia, the Queensland Resources Council and the Chamber of Minerals and Energy of Western Australia have welcomed the recommendations from the legal and constitutional affairs legislation committee.

“The resources sector looks forward to the parliament passing the amendment bill as speedily as possible to remove any doubt about the legal status of a large number of native title agreements across Australia,” a joint statement says.

“[We] call on the government to expedite legislation to restore certainty to hundreds of mining tenements and onshore petroleum leases granted in reliance of right to negotiate agreements.”

The Greens do not support the committee’s recommendations.

They say they are concerned about the haste with which the bill was introduced and passed through the House of Representatives, and the lack of consultation with Aboriginal and Torres Strait Islander communities regarding the bill.