



The Hon Anastacia Palaszczuk MP  
Premier and Minister for Trade  
PO Box 15185  
CITY EAST Queensland 4002  
By email: [thepremier@premiers.qld.gov.au](mailto:thepremier@premiers.qld.gov.au)

The Hon Jackie Trad MP  
Deputy Premier, Treasurer and Minister for  
Aboriginal and Torres Strait Islander Partnerships  
PO Box 15009  
CITY EAST Queensland 4002  
By Email: [deputy.premier@ministerial.qld.gov.au](mailto:deputy.premier@ministerial.qld.gov.au)

The Hon Dr Anthony Lynham MP  
Minister for Natural Resources, Mines and Energy  
PO Box 15216  
CITY EAST Queensland 4002  
By Email: [sdnrm@ministerial.qld.gov.au](mailto:sdnrm@ministerial.qld.gov.au)

22 December 2017

Dear Premier, Deputy Premier, and Minister Lynham,

**Re: Wangan Jagalingou people and the Adani Mining Project**

We write to you at the direction of the Wangan and Jagalingou Traditional Owners Family Council (“the W&J Council”). The W&J Council received its most recent mandate at a meeting of the W&J claim group on 2 December 2017.

We note the following message from the Office of Premier:

“The Honourable Dr Anthony Lynham MP, Minister for Natural Resources, Mines and Energy, has requested legal advice on the request from the Wangan and Jagalingou Family Council to place any decisions on hold relating to the Indigenous Land Use Agreement that was registered by the Native Title Tribunal between the Wangan and Jagalingou People and Adani.”

The W&J Council opposes the Adani Mining Pty Ltd project because of the damage that it will cause to the culture, and the lands and waters, of the Wangan and Jagalingou People.

W&J Council also oppose the registered Indigenous Land Use Agreement (ILUA) with Adani Mining Pty Ltd purported to be authorised by the Wangan and Jagalingou People in controversial circumstances (“the Adani ILUA”). We uphold the decisions of the claim group who, on four separate occasions (the last being at the authorisation meeting of 2 December 2017), have rejected the Adani ILUA.

We note the following –

**PO BOX 1724  
Milton, Queensland 4064**

**Email: [info@wanganjagalingou.com.au](mailto:info@wanganjagalingou.com.au)**

**1. There is no free prior informed consent of the Wangan and Jagalingou People to the Adani project or the Adani ILUA.**

A meeting was held of the claim group on 2 December 2017 to consider and finally determine whether the Native Title Claim group authorises the Adani ILUA and agrees to the surrender of Native Title in parts of the ILUA area and to the grant of water licences for the project.

This meeting was in accordance with section 251A of the *Native Title Act 1993* (Cth), and passed a series of resolutions, again rejecting the Adani ILUA.

It is the Government's stated position that it will "rule out making any decisions that rely on the impairment or extinguishment of Indigenous land rights unless [it has] obtained the free, prior and informed consent of the rightful traditional owners of the land".

The purported Adani ILUA is not satisfactory, does not exhibit genuine self-determination on the part of the claim group, and was obtained in circumstances where free prior informed consent was not possible.

The contested Adani ILUA does not sustain a claim by the Government or Adani Mining Pty Ltd that consent has been obtained. Your Government has been advised of this on numerous occasions, but has previously chosen to ignore or minimise the fact.

It is incontestable that the mining leases granted to Adani Mining Pty Ltd were issued without the approval of the Wangan and Jagalingou people.

**2. The Adani ILUA and ancillary agreement are not acceptable compensation for the destruction of our country and the loss and suffering that would occur. Nor do they provide an equitable consideration regarding jobs and benefits.**

Benefits which may flow under the Adani ILUA to Wangan and Jagalingou People are well below the standards that are provided to Aboriginal People in comparable projects where agreement is reached. This is supported by the opinion of Murray Meaton who is an independent expert and a respected Mining Economist. At previous authorisation meetings, the Wangan and Jagalingou People were not provided with an opinion about the benefits under the Adani ILUA from an independent expert. When Mr Meaton's opinion was presented to the authorisation meeting of the Wangan and Jagalingou People on 2 December 2017, they overwhelmingly rejected the Adani ILUA. We enclose a copy of the report prepared by Mr Meaton provided to the meeting in the form of a power point presentation.

**3. The circumstances in which the Government, in support of an ILUA, became directly involved in internal Wangan and Jagalingou discussion is of very serious concern to us.**

Minister Lynham and the Coordinator-General were advised by five members of the Applicant in January 2016 of the problems attending the purported decision of the Applicant to return to negotiations with Adani Mining Pty Ltd, including that no valid decision of the Applicant had been taken to engage the Coordinator-General's offer to assist with the agreement. We are happy to provide a copy of this letter if you require it.

The position speaks of the duress our people were placed under, and the lack of consent to processes that led to the overturning of the claim group's decision, seemingly in favour of Adani Mining Pty Ltd.

In April 2016, the Adani ILUA was signed by seven of the twelve members of the Applicant in the Wangan and Jagalingou native title claim. However, since the time of signing, one member of the Applicant (Mr Craig Dallen) has, by affidavit filed in the Federal Court, withdrawn his support for the Adani ILUA.

In addition, Mr Patrick Malone, the self-proclaimed spokesperson for the remaining members of the Applicant who support the Adani ILUA, has publicly stated that the Coordinator-General pressured the claimants to come to the negotiating table. He is quoted as saying that:

“Each of us applicants got a letter from the Coordinator-General saying because we weren’t willing to engage with certain people they were going to start proceedings to extinguish native title against all Wangan and Jagalingou Country. The seven of us decided it’s all about having our native title recognised, so we went back to Adani and said we are willing to negotiate with you.”

We enclose a copy of the press report in which Mr Malone’s statement was published.

**4. The Adani ILUA contains a provision which allows for the immediate surrender and extinguishment of our native title.**

During the recent election, the Premier stated that it was the Government’s policy that the Adani Project must stand on its own financially. Adani Mining Pty Ltd has yet to announce that it has the financial backing for the project to go ahead. It has previously stated that it intends to make the announcement by the end of March 2018.

We enclose legal advice obtained from Mr David Yarrow of Counsel which is to the effect that, if the ILUA were valid, a grant of freehold (and the surrender it triggers pursuant to the ILUA) would extinguish native title in respect of the land the subject of the freehold grant.

There is also the prospect that a Court might find that, once a grant of freehold is made, the extinguishment of Native Title cannot be reversed even if the Adani ILUA was found to be invalid. The avoidable tragedy that needs to be averted is the extinguishment of native title in circumstances where Adani Mining Pty Ltd does not proceed with its project or does not have a valid ILUA.

The validity of the Adani ILUA has been challenged in the Federal Court. The matter has been set down for a three-day hearing beginning on 12 March 2018.

It would be prejudicial and unfair for your Government to take action which would result in Native Title being extinguished before the Federal Court determined the application regarding the validity of the Adani ILUA.

With the above in mind we request your Government to:

1. Advise us how the Government’s policy of free prior informed consent applies to the circumstance of the Wangan and Jagalingou People with respect to the Carmichael mine and the Adani ILUA;
2. Explain how your Government signed an ILUA that did not meet industry standards for at least equitable compensation and benefits;

3. Investigate and report on the claims by Mr Patrick Malone, that the Coordinator-General pressured members of the Wangan and Jagalingou Applicant to support the Adani ILUA, and explain why no response was forthcoming to the advice that the Applicant had in fact not made a decision to re-engage in negotiations for an ILUA;
4. Give an undertaking not to grant any freehold title to Adani Mining Pty Ltd, thereby extinguishing native title of the Wangan and Jagalingou People pursuant to the Adani ILUA, until, at the very earliest, such time as Adani Mining Pty Ltd has demonstrated to your Government that it has full and final financial approval to carry out the project.

Premier, we are pleased that your government was successful at the recent election and was able to form a majority government. We hope this is an opportunity for you to engage more directly and even-handedly with us.

It has not gone unnoticed by the W&J Council that the election result was made possible by the support of electorates in which sentiment is overwhelmingly against the Adani mine.

In addition, a majority of Queenslanders support your Government's position that there should be no extinguishment of Native Title without the consent of the Wangan and Jagalingou people.

We hope that in future dealings with Adani Mining Pty Ltd your Government will adopt a stance that is consistent with the views of the majority of Queenslanders. To this end, we trust that you will not allow our native title to be extinguished.

Yours faithfully



Linda Bobongie  
Chairperson



Adrian Burragubba  
Spokesperson