



New South Wales Bar Association

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Retrospective laws move the goalposts

The Bar Association has condemned cynical moves by the New South Wales Government to retrospectively extinguish important property rights of farmers, which were recently upheld by the Supreme Court.

The government has introduced legislation overturning a Supreme Court decision upholding the right of all relevant landholders to be consulted about access arrangements for a mining company to explore a farmer's property. In *Brown & Anor v Coal Mines Australia* Justice Schmidt ruled that BHP's exploration licences for the Liverpool Plains were invalid.

“Retrospective legislation such as this unilaterally extinguishes individual rights without providing any right of appeal” said Bernie Coles QC, senior vice-president of the Bar Association. “The impartial administration of justice is an essential feature of our democracy, and yet the government is happy to overturn valid legal rights won in the courts. “

“It is one thing for the government to propose changes which could overcome the effects of the judgment in future cases, but it is unacceptable for government to overturn existing legal property rights with the stroke of a legislative pen.” Mr Coles said.

“Appeal rights exist to allow parties to protect their interests in the court system. It is fundamentally undemocratic for the government to retrospectively intervene and take sides in private litigation” said Mr Coles.

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