

## Issue

The NSW Government commissioned Former Australian Federal Court Judge and Chief Justice of the Industrial Relations Court of Australia, Murray Wilcox, to undertake a review of issues at Lightning Ridge. Mr Wilcox toured the area in May 2011 and provided his final report to the NSW Government 8 July 2011. More than three months later, and following a Government Information (Public Access) application from NSW Farmers, Government has refused access to the report claiming “there are overriding public interests against disclosure” and has not yet released the findings.

## The Wilcox Inquiry

Mr Wilcox was engaged by the NSW Government to undertake a review of issues at Lightning Ridge to:

- a) conduct an impartial review and recommend a methodology for establishing appropriate levels of compensation to landholders affected by minerals claims at Lightning Ridge;
- b) identify a process that allows on-going assessment of future compensation,
- c) meet with local landholders and miners to identify other specific issues of concern, and
- d) prepare a report for the Director General of the Department of Trade and Investment, Regional Infrastructure and Services outlining his findings.

Justice Wilcox toured the district in early May 2011, meeting with both landholders and opal miners.

## Key Concerns

Whilst the terms of reference outlined above address some of the concerns of landholders, it is far from comprehensive. NSW Farmers lodged two submissions and formally requested that each of the following issues be addressed as part of the review, in sequential order:

### 1. Regulation

- The review must consider current legislative and regulatory provisions for landholders and opal miners alike. This must take into account the content of current legislation, regulations and policy, as well as how effectively they are being policed. At a minimum, this must include a review of standards and licensing conditions and rehabilitation requirements under the *Mining Act 1992*; opal mining regulations and occupational health and safety requirements. This must also include the licence term, including the current practice of renewing licences indefinitely.
- The review must consider the current dispute resolution requirements under the Act, including arbitration and appeals processes.

### 2. Access

- The review must consider current access requirements, including Access Management Plans, buffer zones, fire risk management, biosecurity and public liability. The Association argues that the requirements of Access Management Plans for opals differ markedly from and fall well below those required for access agreements for other forms of mineral extraction.

### 3. Compensation

- The review must then consider current compensation provisions, and whether they allow for the direct and indirect effects of mining; total number of registered and de-registered claims on property; impacts on agricultural productivity; timeframes for rehabilitation of claims; ongoing legal liability should licence conditions not be met; and the scope and quantum of environmental levy (and its application to prospecting as well as mineral claims).
- This aspect of the review should also consider the establishment of an independent, transparent compensation administration fund.
- This aspect of the review should also consider provisions to buy out landholders who can no longer continue to operate their farm business as a result of opal prospecting and mineral claims.

**Background**

- In November 2008, the Association hosted a tour of the Lightning Ridge District, demonstrating to the Director General of the then Department of Primary Industries how opal mining is adversely affecting landholders in the district (see attached photographs).
- As a follow-up to the tour, the Association prepared a formal submission to the Director General, outlining a series of recommendations for timely Government consideration. In the two years since the submission was lodged, there has unfortunately been very little progress in addressing these issues, compounded by the release of a further Opal Prospecting Area (OPA4).
- Landholders in the Lightning Ridge district have been battling issues of trespass, dangerous workplace health and safety practices, illegal shooting, illegal dwellings and woefully inadequate compensation for years, and in some instances, decades, without a coordinated or systematic mechanism to resolve the issues.
- Numerous reviews have been conducted over the years, as far back as the late 1980s, all to no avail. Landholders viewed the Wilcox Inquiry as a chance to start afresh – to have longstanding, systemic problems addressed by a new Government committed to “putting rural and regional communities back at the heart of government in this State”. The ongoing delays are leading landholders in the area to question this commitment and are asking – “what has the Government got to hide?”