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Supreme Court Case upholds farmers' rights

"For Northparkes mining company to suspend a multi-million dollar exploration operation on the basis of a recent Supreme Court decision that protects farmers' rights is of great concern," says NSW Farmers' Association President Charles Armstrong.

"Access agreements signed by landholders with mining companies can still be legally binding. In fact, access agreements can only be invalidated if they are challenged by a landholder and found to have breached the relevant legislation," Mr Armstrong said.

NSW Farmers' Association is concerned that the minerals industry may be exaggerating the impact of the Supreme Court decision to try to pressure the NSW Government into legislative amendments to weaken the Mining Act and lessen the property rights of landholders.

"The implication for the mining industry out of the recent decision is that they must comply with the NSW Mining Act 1992 - an act that has been in place for almost 20 years," Mr Armstrong said.

"Northparkes could easily confirm the certainty of their existing agreements by notifying any mortgagees or others mentioned on title. All it could take is a couple of extra letters or a phone call from the mining company," Mr Armstrong said.

"Direct negotiation of voluntary access agreements with farmers can still continue, and Northparkes will be able to build on the wonderful relationships they have established with landowners and the community in the certainty that they have complied with the law," he said.

"The Court's judgment has only improved the rights of all those affected by the access agreements. They can now insist that miners provide more detail on how they intend to manage their operations to reduce the risk of environmental damage. The decision has no bearing on how farmers run their farms," he said.

"In truth, the minerals industry appears to have been taking shortcuts for years," Mr Armstrong said.

In the 5 March Supreme Court judgment, Justice Schmidt clearly outlined the purpose of the Mining Act was to: "... provide an efficient, clear, and fair basis for exploration and mining of the State's mineral resources. That requires a balancing of the competing interests of the licence holder, who is granted a title to the land under the exploration licence for which very substantial sums are paid, with the interests of landholders, who include, of course, owners of the property ... and their mortgagees. They, too, may have very substantial financial investments or interests in the land."

Mr Armstrong said it was imperative that landowners are aware of their rights to negotiate fair access to their land.

The Association has recently updated its Land Access Agreement Guide, which will be available to Members.

"The law is clear. Mining companies have a duty to consult all parties mentioned on title and now the NSW Supreme Court has simply confirmed it," Mr Armstrong concluded.

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