

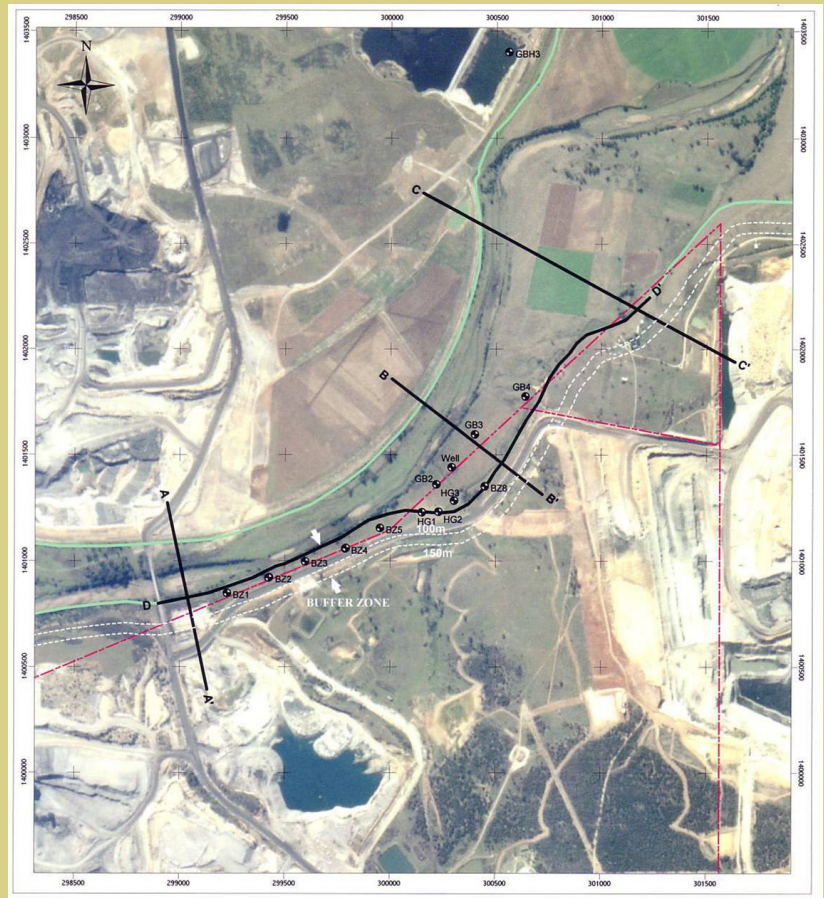
THE EFFECT OF MINING ON PROPERTY RIGHTS

Currently, mining and planning legislation fail to adequately protect agricultural resources and farmers' property from the impacts of mining.

It is impossible to undertake any large scale mining without permanent, destructive changes to natural resource systems and a range of negative amenity, health and financial impacts to the surrounding district. Current standards and processes, for selecting appropriate sites, minimising cumulative impacts, controlling risk and compensating affected citizens are unacceptably low.

RIGHT: This image shows open cut coal mines surrounding the Hunter River. These coal pits are far below the level of river.

These mines have already had serious impacts on the quantity and quality of ground water. If a mine wall collapsed, the Hunter River will literally end up in a hole in the ground, as happened in 2007 with the Latrobe River in Victoria.



Left: Mining alongside the Latrobe river ended in disaster. The Yallourn Mine Batter Failure Inquiry Report, June 2008, identified slack and lapsed safety standards and found that mine consultants had lacked the skill to give competent advice for more than a decade.

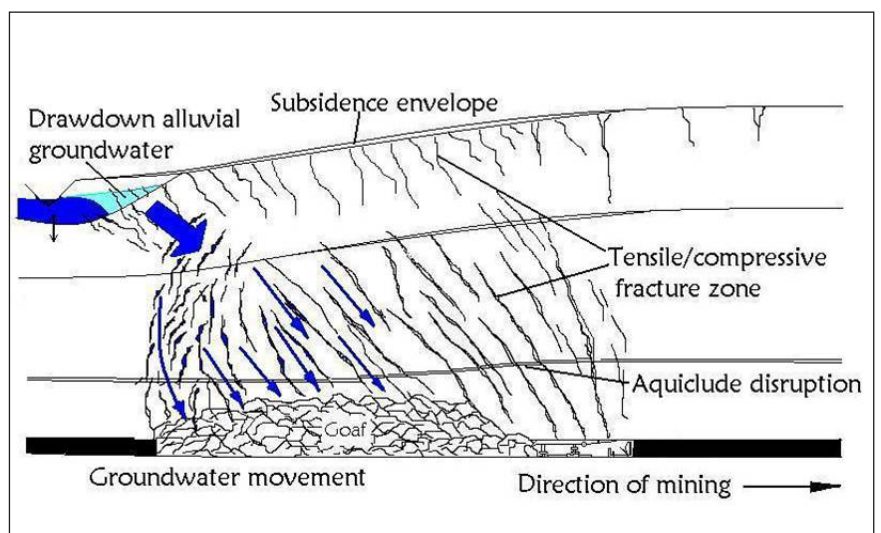
While governments appear to be calm about these risks, farmers living next to mines, and who depend on access to reliable, uncontaminated water are not calm. They want action.



The Association is supporting farmers in protecting their farms from inappropriate mining development. Former Association President Jock Laurie addresses a Rally outside of NSW Parliament House in 2009.

Right now, new open cut and underground coal mines are being planned in the Liverpool plains – Australia’s most productive farming region. Farmers are concerned that these mines may damage the precious underground water systems on which the productivity of the region depends. It is impossible to reassemble and rehabilitate an aquifer after mining.

It may be possible to limit the damage and risk resulting from one mine, but experience shows that one mine tends to be followed by others, and the cumulative impacts are catastrophic – not just in environmental terms, but on the entire social and economic character of the district. Planning legislation and the mining approval process makes no provision for managing these cumulative impacts.



Underground mining can fracture aquifers resulting in loss and contamination of ground water.

SPECIFIC PROBLEMS AND PROPOSED SOLUTIONS

EXPLORATION LICENCES – The Problem

Currently in NSW, mining exploration licences are granted with little or no consideration to the impacts that these licences will have on freehold land and water titles in the affected area. To make matters worse, licences are awarded without any inter-agency or stakeholder consultation, assessment of scientific data, independent assessments of natural resources, consideration of cumulative impacts, or consideration of the agricultural production activities that are potentially affected by them.

Landowners are not individually notified of exploration licences granted over their properties and often have to read about these in the local press. There are no government resources to assist the landowner to deal with the implications of the granting of the exploration licence over their property.

Proposed Solution

- Include an independent scientific process prior to the granting of any exploration licence to identify and protect high value natural resources and highly productive agricultural land;
- Include an independent body in the assessment process;
- Notify every title holder prior to publication of the awarding of a licence; and
- Provide an initial appeals process prior to awarding exploration licences.

PLANNING – the Problem

Current planning processes are not up to the task of resolving the complex resource allocation and risk management questions that must be addressed when considering areas for mining development. This is particularly the case when highly valuable agricultural and water resources are involved.

The current process encourages significant investment in exploration and the development of mining project proposals in isolation and without any consideration of competing values (for example agricultural values) and potential risks to those values.

Proposed Solution

- Establish an integrated strategic planning process for mining development that factors in all competing social, environmental and economic values;
- In such planning, make explicit, upfront provision for cumulative impacts;
- Ensure the planning and approval process, including the issuance of exploration licences, incorporates inter-agency discussion, strategy, advice and recommendations; and
- Remove Minister call in powers under Part 3A.

Part 3A is within the Environmental Planning & Assessment Act 1979 and it is a mechanism under which the Minister can override normal planning approval processes.

COMPENSATION – the Problem

In any legal challenge the onus is on the landholder to provide all evidence regarding the extent of any damage that has been done, prove that the mining activities are directly responsible for this damage, and bear all costs associated with the process, including any adverse cost orders in the Land and Environment Court.

Farmers do not have the resources to defend themselves against the financial clout of multinational mining companies. The miners know this, and openly practice a policy of fear, often pouring unlimited resources into cases they know they cannot win, simply to scare other individuals from taking them on.

Currently there is no requirement for independent monitoring of environmental issues during the exploration or mining process, with these activities being left in the hands of the miners themselves. This makes it nearly impossible for farmers to gather the evidence needed to prove their case.

The limited compensation currently available to landholders typically stops at the boundary of the directly affected property which can mean the farmer adjacent to the mine, or in range of the mines dust and noise, gets nothing.

Finally, there is currently no provision in any statutory instrument to compensate farmers for impacts from mining or exploration on water assets to which farmers hold legal title.

Proposed Solution

- Establish an independent tribunal to investigate mining impacts and assist landholders in gathering evidence.
- Provide statutory arrangements for proportional just terms compensation to all landholders affected by mines; and
- Provide statutory arrangements for just terms compensation for loss of water or degradation of water title.

The Association is not opposed to mining. We simply want equal treatment under the law, a balanced approach to deciding where and how mining occurs, and just terms compensation to all affected landholders when it does go ahead.