

# LAND COURT OF QUEENSLAND

CITATION: *McIntyre and North Burnett Regional Council* [2009] QLC 0066

PARTIES: In the matter of Mining Lease 3685 – Determination of compensation payable by John Stewart McIntyre and Mary Josephine McIntyre to North Burnett Regional Council

FILE NO: MLC208/2008

PROCEEDING: Application for determination of compensation

DELIVERED ON: 19 May 2009

DELIVERED AT: Brisbane

HEARING DATE: Heard on the Papers

MEMBER: Mr BR O'Connor, Judicial Registrar

ORDER: **1. Compensation determined at \$240.**  
**2. The miners pay the total compensation of \$240 to the North Burnett Regional Council within two months from notification of the renewal of the mining lease by the Mining Registrar.**

CATCHWORDS: MINING LEASE – DETERMINATION OF COMPENSATION  
Mineral Resources Act 1989, s.281  
*Re Wallace & Ors & Evans* [2006] QLRT 93, applied.

APPEARANCES: Not applicable – heard on the papers

[1] John Stewart McIntyre and Mary Josephine McIntyre (the miners) currently holds ML 3685. It was subsequently twice renewed, the most recent term expiring on 31 May 2008. The mining lease was originally granted on 1 June 1974 for a period of 8 years.

On 30 May 2008 the miners lodged an application for renewal of the mining lease for a term of 11 years with the Mining Registrar, Rockhampton.

- [2] This determination of compensation relates to an area of Road Reserve under the control of the North Burnett Regional Council. Only part of the lease is over this Road Reserve.

**Tribunal Practice Direction**

- [3] On 18 December 2008 the Court sent letters to the miners and the Council bringing the referral of this matter to the Court by the Mining Registrar to their attention, and advising them of their obligations under the relevant Court Practice Direction. Timeframes for the submissions of relevant material were provided to each party. Neither the miners nor the Council have made any submission on compensation.

- [4] It is not an uncommon occurrence for either or both parties in a compensation matter before the Court to fail to comply with the relevant Practice Direction. The absence of detailed, or any, compensation evidence clearly makes the task of the Court in determining compensation very difficult. In the circumstances, I adopt the analysis of the legislative provisions, compensation principles and methodology applied by Mining Referee Windridge in *Re Wallace & Ors & Evans* [2006] QLRT 93.

**Determination**

- [5] Taking into account all heads of compensation in subsection 3 of s.281 of the *Mineral Resources Act 1989* (the Act), and absent details of the precise area of land required for mining, I use an area of 2 hectares-rounded. I assess compensation in the sum of \$10 per hectare per annum for the term of the lease, which equates to \$220. Pursuant to s.281(4)(e) of the Act, I award the additional sum of \$20.
- [6] Taking all relevant factors into account, I order that the miners pay the total compensation of \$240 to the North Burnett Regional Council within two months from notification of the renewal of the mining lease by the Mining Registrar.

**BR O'CONNOR  
JUDICIAL REGISTRAR**