

# LAND AND RESOURCES TRIBUNAL QUEENSLAND

CITATION: *Re Australian Gold Corporation Pty Ltd v Reddicliffe*  
[2007] QLRT 109

PARTIES: **In the matter of Mining Lease No 20240 –  
Determination of compensation payable by  
Australian Gold Corporation Pty Ltd to Ronald  
Norton Reddicliffe**

FILE NO/S: MLC81/07

PROCEEDING: Application for determination of compensation

DELIVERED ON: 20 August 2007

DELIVERED AT: Brisbane

HEARING DATE: Heard on the Papers

MEMBER/S: Smith DP

ORDER/S: **1. Compensation determined at \$1,007.60 (at [7])  
2. The miner to pay the total compensation of  
\$1,007.60 to the landholder within two months  
from notification of the renewal of the mining  
lease by the Mining Registrar. (at [8])**

CATCHWORDS: MINING LEASE – DETERMINATION OF  
COMPENSATION

*Mineral Resources Act 1989, s. 281*

*Re Wallace & Ors & Evans* [2006] QLRT 93, applied

COUNSEL: N/A

SOLICITOR/S: N/A

## *Background*

- [1] Australian Gold Corporation Pty Ltd (the miner) currently holds ML20240. The mining lease was originally granted on 1 August 1996 for a period of 10 years. On 11 January 2006 a previous owner of the Mining Lease lodged an application for renewal of the mining lease for a term of 10 years with the Mining Registrar, Mareeba District.
- [2] The lease is located on a property owned by Ronald Norton Reddicliffe (the landholder). Access to the lease is through the landholder's property. The

renewal is for the purpose of mining for gold, silver ore, mercury ore, quartz/quartzite/silica and building stone--slate. The lease area is 16ha.

### *Tribunal Practice Direction*

- [3] On 5 April 2007 the Tribunal sent letters to the miner and the landholder bringing the referral of this matter to the Tribunal by the Mining Registrar to their attention, and advising them of their obligations under Practice Direction 1 of 2003. Timeframes for the submission of relevant material were provided to each party, with the final material due by 11 June 2007. Neither party has complied in any way with the Tribunal Practice Direction. Accordingly, the only relevant material available to the Tribunal to determine compensation is that which the Mining Registrar supplied.
- [4] It is not an uncommon occurrence for either or both parties in a compensation matter before the Tribunal to fail to comply with Practice Direction 1 of 2003. Mining Referee Windridge has determined a matter in circumstances which mirror those before me, and I adopt the analysis of the legislative provisions, compensation principles and methodology applied by Mining Referee Windridge in that case, *Re Wallace & Ors & Evans* [2006] QLRT 93.

### *Determination*

- [5] The Mining Registrar has provided a copy of the Department of Natural Resources and Water QVAS Property Details Report for the landholder's property which shows the unimproved valuation, valuation date 1 October 2005, in the sum of \$165,000.00 for the 3,250 hectare property. Using the unimproved valuation, and assuming the land subject to the mining lease is of an average standard for the property, the unimproved value of the mining lease land equates to \$50.77 per hectare. Although the purpose of the unimproved valuation is not for determining compensation under the *Mineral Resources Act* 1989 (the Act), given the absence of any other evidence, I am prepared to accept the value of the land as at 1 October 2005 to be, rounded up, \$51.00 per hectare. Further, absent any evidence that I can rely on as to any change in value subsequent to that date, I adopt \$51.00 per hectare for the purposes of this determination.
- [6] As the material provided by the Mining Registrar shows that the mining is to be by way of open cut method with related infrastructure, and absence any evidence, I am prepared to accept that the loss suffered by the landholder will equate to a total loss of the land. I further note that there would seem to have been little disturbance to the land during the 10 years prior to the application for renewal of the mining lease, but that open cut mining is expected to occur shortly after renewal, given that the mining lease is now in new ownership.
- [7] Taking into account all heads of compensation in subsection 3 of s 281 of the Act, I assess compensation in the sum of \$51.00 per hectare, which for 16 hectares equates to \$816.00. Doing the best that I can with the limited material before me, I award the additional sum of \$100.00 for access, taking into account that the access appears to be quite lengthy, making a total award of \$916.00. Pursuant to s 281(4)(e) of the Act, I award the additional sum of \$91.60.

- [8] Taking all relevant factors into account, I order that the miner pay the total compensation of \$1,007.60 to the landholder within two months from notification of the renewal of the mining lease by the Mining Registrar.

*Postscript*

- [9] In this matter, it is worth noting that the Mining Registrar's referral to the Tribunal occurred on 5 April 2007, and that the parties were written to that same day by Tribunal staff advising of a timeline for written material and submissions which was set to conclude on 11 June 2007. As already indicated, nothing was received from either party.
- [10] On 8 August 2007 President Koppenol allocated this matter to myself, and the decision was completed by 17 August, with delivery on 20 August 2007. Given that Tribunal records will show this matter as having been 'reserved' from the time of allocation until handing down of the decision, and taking into account two weekends and a public holiday, this would appear, statistically, to be another example of speedy resolution by the Tribunal. However, statistics can be illusionary. The fact is that over 4 months have elapsed from the time of referral by the Mining Registrar to allocation of the matter by the President, with no material being received by the Tribunal in that time to assist the decision-making process. Unfortunately, as noted by both myself and Mining Referee Windridge in other compensation matters, there are an alarming number of matters where little or no worthwhile material is received by the Tribunal following the procedure set out in Practice Direction 1 of 2003. Given the complexities of the Act; the relatively high cost of expert valuation evidence; and the time and other constraints of miners and landholders, this is hardly surprising, particularly with respect to 'small scale' mining operations.
- [11] In my view, the procedures of Practice Direction 1 of 2003 should be urgently reviewed in order to find an efficient system which better meets the interests of miners and landholders in a more timely manner, with a process designed to result in more meaningful material being provided to the Tribunal, particularly in 'small scale' mining operations. For instance, had a short 'telephone hearing' been held in this matter a couple of weeks after referral, it could reasonably be anticipated that more useful evidence would have been before the Tribunal, and the matter could have been concluded in May instead of August. Of course, such a system may on 'bare statistics' give the impression that the matter is 'reserved' for a longer period, but the reality of a timely disposal of the matter by the Tribunal would be quite the opposite.