

LAND AND RESOURCES TRIBUNAL QUEENSLAND

CITATION: *Carpentaria Gold Pty Ltd v Telstra Corporation Limited* [2007] QLRT 100

PARTIES: **In the matter of Mining Lease 1435 – Application by Carpentaria Gold Pty Ltd for determination of compensation payable to Telstra Corporation Limited.**

FILE NO: MLC91/07

PROCEEDING: Application for determination of compensation

DELIVERED ON: 8 August 2007

DELIVERED AT: Brisbane

HEARING DATE: Heard on the papers

MEMBER: Windridge MR

ORDER/S: **1. I determine total compensation under s. 281 in the sum of \$100.00. (at [13])**
2. I direct that the miner pay the total compensation in the sum of \$100.00 to Telstra Corporation Limited within 2 months of notification of the renewal of mining lease 1435 by the Mining Registrar. (at [14])

CATCHWORDS: MINING LEASE – DETERMINATION OF COMPENSATION

Mineral Resources Act 1989, ss 279, 281

Smith v Cameron [1986-87] 11 QLCR 64
Shaw v Heritage Holdings Pty Ltd [1992-93] 14 QLCR 139
Mitchell v Oakhill and Mitchell (10.03.98) unreported

COUNSEL: N/A

SOLICITORS: N/A

Background

- [1] The applicant Carpentaria Gold Pty Ltd (the miner) seeks the renewal of Mining Lease 1435 in the Charters Towers District. The application for renewal is for a term of 21 years. The lease is granted for the purpose of mining for a number of minerals, principally gold.

- [2] Part of the lease is located over Lot 17, Parish Ravenswood, County Gladstone. This lot is owned by Telstra Corporation Limited. This lot, or that part of the lease that is over this lot is 2.672 hectares in area. For the purpose of this determination, I round off the area to 3 hectares.

The Act

- [3] Section 279 of the *Mineral Resources Act 1989* (“the Act”) provides that a mining lease shall not be granted or renewed unless an agreement in relation to compensation has been filed at the office of the Registrar, or in the absence of such an agreement, a determination of compensation has been made by the Tribunal. In this instance, no agreement has been lodged with the Registrar and the matter has been referred to the Tribunal for determination.
- [4] The matters which must be considered by the Tribunal are set forth in section 281(3) of the Act. Although section 281 sets out the matters to be considered, it does not define any method of assessment. The following Land Court case reports may offer some guidance in determining the approach to be adopted. In *Smith v Cameron* (1986) 11 QLCR 64, the Land Court held at p.74...

“The section in my opinion merely identifies matters which shall be taken into consideration in making the assessment. It does not prescribe a method of valuation. No doubt each case will depend on its own facts and circumstances but it seems to me that either method is open to the valuer.”

- [5] In *Shaw v Heritage Holdings Pty Ltd* (1992-93) 14 QLCR 139, the Court at p.146 said:

“the method of assessment remains a matter which will be governed by the facts and circumstances of each case in which event emphasis may shift from one method to another.”

- [6] In considering *Mitchell v Oakhill and Mitchell* (10 March 1998) unreported, the President of the Land Court, referring to section 281(3) of the Mineral Resources Act, found

“the latter section does not prescribe a method of assessment. In my view, as long as the amount of compensation finally determined sufficiently accounts for each of the matters referred to in the sub-section, it is not necessary to quantify an amount in respect of each of the matters referred to.”

The evidence

- [7] Neither party sought to appear before the Tribunal and this matter has been dealt with on the papers. Neither party filed statements or other supporting material. Some documentation in relation to factual matters was provided by the Registrar. Where necessary, I have referred to these documents for the purpose of accuracy.
- [8] There was no formal valuation evidence to consider therefore the Court does not have that assistance in arriving at a determination. Due to the small area involved, the cost of a valuation would far outweigh any award for compensation. Due to the small area involved, co-use or co-occupation would not be feasible.

[9] There have been no recent determinations of compensation in the Charters Towers District. The lease (including this lot) is located to the east of the public road which leads to Ravenswood from the Flinders Highway.

[10] In summary, there was no evidence called to support any claim under any other head of compensation, nor was any matter raised which would necessitate consideration under paragraphs (a), (c), (d), or (e) of subsection 4 of section 281 of the Act.

Access

[11] There is no detail of any land lost through access. I make no award for access.

Quantum

[12] There is no evidence of the actual use of the land by Telstra, or the effect that the renewal of the lease will have over the land.

[13] Having regard to all the circumstances, I consider that the following award will satisfy the requirements of section 281 for the term of the renewed lease for the limited purposes authorised by the grant of the lease. Drawing on the limited evidence that is available, I determine compensation under Part 7 of the *Mineral Resources Act 1989*, to satisfy all heads of compensation set forth in subsection 3 of section 281 of the *Mineral Resources Act 1989* shall be the sum of \$1.00 per hectare per annum for the term of the renewal. The compensation award is \$63.00. I further award the sum of \$6.30 under section 281(4) (e) to reflect the compulsory nature of the action taken under this part, making a total award of \$69.30. I round off the award to \$100.00.

Terms of payment

[14] In relation to the terms, conditions and times when payments should be made, I take into account the quantum of the order, the size of the lease and the term of the lease. In these circumstances, I order that the miner pay total compensation to Telstra Corporation Limited in the sum of \$100.00 within a period of two (2) months from notification of renewal of the mining lease by the Mining Registrar.