

# LAND AND RESOURCES TRIBUNAL QUEENSLAND

CITATION: *Re Edwards v Calmsden & Ors* [2007] QLRT 118

PARTIES: **In the matter of Mining Lease No 3807 – Determination of compensation payable by Terrence Edwards to Dianne Calmsden, Matthew J. Mauloni, Robert T Mauloni, Thomas J Mauloni, and Thomas S Mauloni**

FILE NO/S: MLC97/07

PROCEEDING: Application for determination of compensation

DELIVERED ON: 22 August 2007

DELIVERED AT: Brisbane

HEARING DATE: Heard on the Papers

MEMBER/S: Smith DP

ORDER/S: **1. Compensation determined at \$110.00 (at [5])**  
**2. The miner pay the total compensation of \$110.00 to the landholders within two months from notification of the renewal of the mining lease by the Mining Registrar. (at [6])**

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] Terrence Edwards (the miner) currently holds ML3807. The mining lease was originally granted on 1 February 1974 for a period of 6 years. On 1 February 1980 the mining lease was renewed for a further term of 6 years, and on 1 February 1986 the mining lease was again renewed, this time for a term of 21 years. On 22 January 2007 the miner lodged an application for another renewal of the mining lease for a term of 20 years with the Mining Registrar, Mareeba District.

- [2] This determination of compensation relates to access to the mining lease which includes access over a property owned by Dianne Calmsden, Matthew J. Mauloni, Robert T Mauloni, Thomas J Mauloni, and Thomas S Mauloni (the landholders).

#### *Tribunal Practice Direction*

- [3] On 10 May 2007 the Tribunal sent letters to the miner and the landholders 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. The landholders have made no submissions to the Tribunal. The miner has submitted that there should be no or minimal compensation as the access is an ungazetted mining road which has been in existence for at least 40 years; the landholders conduct low intensity grazing; no grazing land will be impacted on by the road usage; and that the existing access is poor, with any upgrading work undertaken by the miner improving not diminishing the value of the land. Unfortunately, the miner's submissions do not include any details of the length of the access over the landholders' property.
- [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. The absence of detailed, or any, compensation evidence clearly makes the task of the Tribunal 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 any details of the area of land required for access, and taking into account the miners submissions, I assess compensation for access in the minimal sum of \$5.00 per annum for the term of the lease, which equates to \$100.00. Pursuant to s 281(4)(e) of the Act, I award the additional sum of \$10.00.
- [6] Taking all relevant factors into account, I order that the miner pay the total compensation of \$110.00 to the landholders within two months from notification of the renewal of the mining lease by the Mining Registrar.