



Caroona Coal Action Group Inc.

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## **WATERSHED DECISION TO HOLD MINERS MORE ACCOUNTABLE** **Liverpool Plains farmers win Supreme Court case against BHP Billiton**

In a landmark judgment, the NSW Supreme Court today found in favor of two Liverpool Plains farmers who challenged the right of BHP Billiton to enter their farms to explore for coal.

The decision has broad implications for all mining companies seeking access to private land in NSW to conduct exploration and exposes serious deficiencies in the way the current regime deals with environmental protection.

Supreme Court Justice Schmidt ruled that the Chief Mining Warden had erred in a number of ways when, last May, he granted BHP Billiton 'access arrangements' to explore for coal on the properties of the Brown and Alcorn families at Caroona.

Justice Schmidt found the 'access arrangements' had been granted in clear breach of the requirements of NSW Mining Act and, as such, were invalid. She said:

*"I order that the decision of the Warden's Court as well as the determination which accompanied it and the interim and final determinations of the arbitrator, be quashed and set aside." (Justice Schmidt - NSW Supreme Court, 5 March 2010)*

CCAG spokesman Tim Duddy said: "This is a watershed decision for NSW which will force mining companies to be properly accountable to the environment in a way they've never been required to before."

"It confirms what this community has said from the outset, that is, landholders have been denied fairness and justice in the way 'access agreements' have been imposed on them by the old Mining Warden's Court."

"We welcome this decision and look forward to the NSW Government now reviewing all of the processes governing mining and exploration in this State to ensure the environment and the rights of landholders are no longer treated as less important," Mr Duddy said.

A key component of the Supreme Court decision was the finding that mining companies must inform all landholders - including banks and other mortgagees - that they intend to seek access to specific lands to conduct exploration. Not doing so in relation to the Brown and Alcorn properties represented a breach of the NSW Mining Act.

It is believed to be common practice for mining companies not to notify mortgagees when seeking to enter properties under the Mining Act meaning a large number of other 'access arrangements' currently being used by miners may also now be invalid.

Justice Schmidt also made other important findings related to the conditions which are able to be imposed on mining companies in 'access arrangements' to provide better protection for the environment and rights of landholders.

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**"We must ensure mining does not destroy our environment, agricultural production, people's livelihoods, health and attachment to the land"**