

Farmers triumph over miners

Drew Warne-Smith From:

[The Australian](#) March 06, 2010 12:00AM

MINING companies may be unable to prospect on private land throughout NSW if they failed to negotiate access with the mortgagee as well as the property owner, after a landmark decision in the NSW Supreme Court yesterday.

Farmers in the Liverpool Plains in northern NSW were last night celebrating after their first major victory over BHP Billiton in their bid to protect one of Australia's most fertile food bowls from the threat of coalmining.

The mining giant paid \$100 million to the NSW government for an exploration licence in the region four years ago, and under that licence it has won the right to access to 21 private properties.

However, in what is believed to be a first, the NSW Supreme Court yesterday quashed the access arrangements made by the state's Mining Warden for two of those farms, owned by the Brown and Alcorn families of Quirindi.

Judge Monika Schmidt ruled that the warden's court had erred in granting access to BHP because the company failed to notify the owners' banks of its plans to conduct exploratory digging, and, contrary to the warden's finding, the lenders did have an interest in whether the land might be contaminated by such activity. Justice Schmidt found the Mining Warden had, without explanation, refused to impose any specific access conditions on BHP to address environmental concerns.

A spokesperson for BHP Billiton said the company was considering its options, while the NSW Minister for Mineral Resources Ian Macdonald said the government was considering the impact of the court decision.