

# Farmers bank a win over miner

KATE LAHEY

March 6, 2010

A GROUP of NSW farmers is claiming a victory over BHP Billiton after the NSW Supreme Court found the mining giant's licences to explore for coal on their properties were invalid because the company had not consulted other landholders - namely the banks.

The effect of the ruling on all exploration licences was not clear yesterday, as BHP and the NSW Minerals Council both said they needed more time to digest the decision.

But the farmers of Caroon, from the Liverpool Plains north-west of the Hunter Valley, were hailing the judgment a landmark decision that strengthened the rights of property owners and better protected the environment.

Justice Monika Schmidt quashed an earlier determination of the Warden's Court and final determinations of an arbitrator in the case, saying that because each landholder was not involved in the access agreements, they were not valid.

Justice Schmidt also said particular environmental concerns for the specific sites BHP wanted to drill had not been properly resolved.

Crop farmer Tim Duddy, a spokesman for the group that took on BHP, said the decision was "vast" and any exploration today on mortgaged land was now in doubt.

"If that land is mortgaged to somebody - and it doesn't matter whether it's the ANZ bank or Great-Aunt Gertrude - their access arrangements are not valid. It is absolutely huge," Mr Duddy said.

"What it means for the future is that exploration in areas such as Liverpool Plains will be carried out appropriately rather than exploring the Liverpool Plains like they're exploring Broken Hill, where there is no underground water source to damage."

The Mining Act permits miners to explore for resources on private land. BHP paid a record \$100 million for the permit in 2006.

Justice Schmidt said one of the two farm owners who led the case was seeking organic certification for crops and was concerned the exploration work could contaminate the land.

Another family feared the work could contaminate its lagoon and potentially poison or contaminate its cattle.

Mr Duddy said the 54 farm owners had the financial backing of the Australian Farmers Fighting Fund to take the case to the Supreme Court.

"The whole process has been so completely skewed and one-sided to enable mining at all costs that the environment and every other business pursuit in the state has been completely overlooked," he said.