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“NSW MINERALS COUNCIL SAYS IT WANTS AN HONEST DEBATE ON LAND ACCESS BILL” REALLY?!

NSW Minerals Council CEO, Nikki Williams, has openly misrepresented the facts about retrospective mining legislation she has lobbied the NSW Government to pass while, in the same breath, calling for a ‘constructive and truthful debate’.

“Dr Williams really has torn a page out of the tobacco industry PR handbook for this effort. I can’t imagine many of her members, who are trying hard to win community trust, will be too happy at being associated with this attempted deception,” said CCAG spokesman Tim Duddy.

In a Media Release and Open Letter Advertisement last week, Dr Williams urges MPs to support the *Mining & Petroleum Legislation Amendment (Land Access) Bill 2010* to nullify a NSW Supreme Court decision against BHP Billiton. The court found BHP had breached the Mining Act in trying to access Liverpool Plains farmland against the owners’ wishes.

To justify the retrospective legislation to override the court’s decision...

Dr Williams is claiming:

“The (Supreme Court) decision ... imposes highly restrictive obligations in the creation of land access arrangements between explorers and landholders.” (Minerals Council Open Letter 6.5.2010)

THE TRUTH:

The Supreme Court upholds the existing NSW Mining Act. The Act requires miners to notify all landholders to seek approval to access the land. Notification requires a letter with 55 cent stamp.

Dr Williams is claiming:

“The industry practice, which had been accepted by the Courts and landowners for decades, has been to seek the agreement with the owner in fee simple of the land.” (Open Letter 6.5.2010)

THE TRUTH:

The ‘industry practice’ was not accepted by many landowners AND had never been tested before in the NSW Supreme Court. This was a landmark court case and found ‘industry practice’ involved systematic breaches of the Mining Act by mining companies.

Dr Williams is claiming:

“The legislation ... deals with very specific, unintended consequences of (the court decision).” (NSW Minerals Council Media Release 6.5.2010)

THE TRUTH:

The legislation would make numerous changes to the Act which take away landholder rights including removing the obligation on miners to notify all landholders AND removing the ability of landholders to take legal action against miners if they breach their Exploration Licence conditions.

Dr Williams is claiming:

“... (the proposed legislation does not) change the matters to be considered by an arbitrator or the Land and Environment Court when determining an access arrangement.” (Open Letter 6.5.2010)

“We must ensure mining does not destroy our environment, agricultural production, people’s livelihoods, health and attachment to the land”



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THE TRUTH:

The legislation would remove the ability (as currently exists under the Act) of an arbitrator or the courts to include conditions from the miner's Exploration Licence in any Access Arrangement - preventing the landholder from taking legal action if the miner breaches their Licence conditions.

Dr Williams is claiming:

(As a result of the court decision) "Instead of having 220 agreements for exploration, (Northparkes mine) will now be forced to negotiate some 700 access agreements to include all title holders found so far. This situation is unworkable." (NSW Minerals Council Media Release 6.5.2010)

THE TRUTH:

The Mining Act, upheld by the Supreme Court, requires there be a single "Access Arrangement" for each property. The court decision does not change in any way the number of access arrangements required by Northparkes mine. It does though require the mine to notify all landholders about the access being sought.

"I'm not sure how Dr Williams thought she was going to get away with this but she certainly hasn't fooled anyone who has read the Supreme Court judgement or seen the retrospective legislation she is so determined to force through the NSW Parliament," Mr Duddy said.

"The legislation is designed to legalise a regime in NSW where mining companies have been allowed to flout the law, ignore the rights of landholders, and cut corners with proper environmental protection.

"Thanks to Dr Williams efforts, I think everyone is now aware of the true intent of this legislation and is in a much better position to ensure it is either defeated or appropriately amended.

"Mining, like agriculture, is a very important industry but it must abide by the law, must respect landholder rights, and must be forced to manage its operations to avoid serious environmental harm," Mr Duddy said.

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