

Bid to remove farmers' rights to protect their land

'BATTLE FOR LAND HEATING UP OVER MINERS' ACCESS'

(The Advertiser, Saturday 10th May)

Many of you would have seen the article in The Advertiser (attached).

A lawyer from Finlaysons, George McKenzie, has called for the Mining Act 1971 to be changed so that **mining companies could seek ministerial authority to compulsorily acquire land.**

DMITRE's deputy chief executive, Dr. Paul Heithersay, seems to agree. He states "For the year ahead, land access is our number one, two and three priority".

This proposal **would completely remove** the protections available to farmers under the current Mining Act.

At present, Section 9 of that Act stipulates that land lawfully used as a cultivated field is exempt from mining operations, unless that exemption is voluntarily waived by the landowner.

If the landowner refuses to waive that exemption, the mining company may either choose to walk away from the project or take legal action against the landowner in the Environment, Resources and Development Court. It is that Court, not a politician, which then makes the decision, based on a range of considerations spelled out in the Act.

Proposed changes to Mining Act contrary to what is needed

As exploration and mining companies move into prime agricultural regions such as Yorke Peninsula, it is becoming obvious that landowners' protections under Section 9 of the Mining Act are not strong enough.

In 2013, both the Hon. Mark Parnell and the Hon Brokenshire introduced changes to the Mining Act that, if passed, would have strengthened farmers' rights to protect their land. These amendments failed, with both major parties voting against them. At the last state election, both the Liberal and Labor parties declared their support for mining.

The Mining Act does need to be changes, but these changes need to provide GREATER protection for farmers against mining companies, not LESS.

Implications for Yorke Peninsula farmers

Farmers on Yorke Peninsula have much to lose if the exemption status of agricultural land is removed from the Mining Act or if a Government minister is given the power to compulsorily acquire land for exploration and mining purposes.

Apart from Rex Minerals' proposed Hillside mine, over 90% of the Peninsula is now covered by exploration licences. In just the last two weeks, two other companies - Marmota Energy at West Melton and Adelaide Resources at Alford - have announced major copper finds on the Peninsula.

If we don't draw a line in the sand now, and fight for farmers' rights to protect their land against invasive mining, Yorke Peninsula could end up as one big mining site, at a time when food production is becoming the No 1 priority for humanity.

**WE MUST ACT NOW TO PROTECT YORKE PENINSULA'S PRIME AGRICULTURAL
LAND FROM INTRUSIVE MINING**

TOMORROW WILL BE TOO LATE!

Battle for land heating up over miners' access

CHRISTOPHER RUSSELL
BUSINESS EDITOR

SENIOR public servant Paul Heithersay has struck a chord with mining and energy executives in outlining priorities for the state bureaucracy.

"For the year ahead, land access is our number one, two and three priority," he said.

Dr Heithersay, who is deputy chief executive of the Department of Manufacturing Innovation, Trade, Resources and Energy (DMITRE), is aware of a shift in the relationship between miners and the community as an increasing number of projects in populated areas start to look viable.

"Land interaction is clearly very important for us," he told the South Australian Resources and Energy Investment Conference this week.

DMITRE is working with miners to educate them about farming and with farmers to help them understand mining.

"Some simple tools (such as publishing booklets) together with community stuff is helping the conversation move to a different level," he said.

While farmers fear losing control of their land, miners face a range of barriers in getting access to land for exploration, project development and logistics' corridors. At least one company has walked away from an exploration tenement when it calculated the cost of gaining access exceeded the cost of drilling a hole.

Landholder interests, indigenous and environmental heritage and different laws for mineral, petroleum and other economic projects make up a complex landscape.

Recently, SA has seen little widespread opposition to resources projects except for protests against Rex Minerals' proposed mine on Yorke Pen-



The most significant potential advantage for the state

GEORGE MCKENZIE

insula, petroleum exploration in the South-East and uranium mining in general.

George McKenzie, a partner at law firm Finlaysons and a national specialist in resources, singled out one aspect of the problems in a call for reform when he addressed the mining conference.

Land was not only the most challenging issue for SA resources but was also "the most significant potential advantage for the state in seeking to attract investment for the sector if only we can get it right".

Mr McKenzie said it was time to reassess the Mining Act, which was amended in 2011.

He set the context that all the state's minerals were owned by the Crown, that the courts had interpreted the Mining Act as intending to encourage mining and that projects could be of strategic economic importance to the state. Yet, a



PUBLIC ANGER: Landowners from Yorke Peninsula hold a protest on the steps of Parliament House against Rex Minerals' Hillside mine proposal.

Picture: DEAN MARTIN

landholder could frustrate development through lengthy and costly legal challenges with an uncertain outcome.

The process was "fatally flawed and requires urgent review", he said. This was particularly where a miner needed to take over the whole - or a substantial portion - of a farm.

He called for miners to be able to seek ministerial authority to compulsorily acquire land, with farmers being paid fair and just compensation.

"While at first blush this may seem a radical approach, there's plenty of precedent for it," he said. Petroleum pipelines, rail, electricity and water could all command compulsory acquisition.

"A major mining project that would bring significant economic development to the state should be in the same category," he said. Compulsory acquisition would only occur where negotiation had failed.

Most resource companies work hard to be in harmony with the community.

Hillgrove Resources - which owns the Kanmantoo mine at Callington in the Adelaide Hills - is deeply engaged with the community.

Hillgrove is spending about \$1 million a year on dust suppression and management of fugitive emissions.

It invites locals onto the site to see the work in practice. Hillgrove managing director

Greg Hall said: "We're doing that because it's the sort of thing that gives you the social licence to operate."

"This is a skill set that companies like ours need to understand. This is every bit as important as resource management, as shipping, financing."

Mineral Resources and Energy Minister Tom Koutsantonis said SA was determined to avoid the conflicts and confusion occurring in NSW and Victoria.

"SA has world-best regulatory processes and the Government recognises the need to constantly engage with all stakeholders to continue to implement effective multiple land-use frameworks," he said.