

LAND COURT OF QUEENSLAND

CITATION: *Zopponi v Struber & Anor No 2* [2010] QLC 0087

PARTIES: **In the matter of Mining Lease No 20484 – Application by Frank Zopponi for determination of compensation payable to Stephen Struber and Dianne Wilson-Struber**

FILE NO: MRA118-09

PROCEEDING: Amendment of determination of compensation

DELIVERED ON: 4 June 2010

DELIVERED AT: Brisbane

MEMBER: Mr PA Smith

ORDERS:

- 1. The orders made on 9 April 2010 be set aside.**
- 2. Total compensation awarded under all heads in the sum of \$5,199.59.**
- 3. The miner pay the compensation of \$5,199.59 to the current landowners by way of instalments, the first instalment being in the sum of \$2,000 within a period of three months from notification of grant of the mining lease by the Mining Registrar, a further payment of \$2,000 on the fourth anniversary date of the grant of the lease, and the balance of \$1,199.59 on the eighth anniversary date of the grant of the lease.**
- 4. The parties be granted 35 days from the date of delivery of this decision to apply to vary this decision should either of them see any reason to do so.**

CATCHWORDS: MINING LEASE – DETERMINATION OF COMPENSATION

Mineral Resources Act 1989, ss 279, 281

APPEARANCES: Not applicable – Heard on the Papers

Background

[1] On 9 April 2010, I delivered my determination of compensation payable with respect to the grant of Mining Lease 20484. The lease is over an area of 46.269 ha and is located in the Mareeba District. The miner is Frank Zopponi, and the landholders are Stephen Struber and Diane Wilson-Struber.

[2] Since delivering the decision, the Mining Registrar, Mareeba District, has brought to the Court's attention the fact that in 2009, he advised the Court that the term of the mining lease had been reduced from 21 years to 10 years. Unfortunately, I was not aware of this advice.

[3] As the reduction in the term of the mining lease was made prior to the Land Court's decision being delivered, in circumstances where the Court had notice of such reduction in the term, and where such reduction has a significant impact on the quantum of compensation that should have been awarded, I consider it appropriate to set aside my orders made on 9 April 2010 in this matter and to amend the written decision which resulted in the original orders being made.

Amendment of Original Decision

[4] I specifically rely on all of the reasons given in my original decision on compensation in this matter,¹ save for such references which relate, both directly and indirectly, to the term of the mining lease being 21 years.

[5] The following paragraphs relating to the determination of compensation and the terms of payment are in substitution of those contained in the original decision.

Determination

[6] Having regard to all the circumstances, I consider that the following award will satisfy the requirements of s.281. I determine compensation under Part 7 of the MRA, to satisfy all heads of compensation set forth in subsection 33 of section 281 of the MRA, to be \$10 per hectare per annum for the lease area of 46.269 ha ($\$10 \times 46.269 \times 10$) which equates to \$4,626.90. As regards access, I make an award for compensation for access (based on access of 2 ha only), at \$5 per ha, for the 10 year term of the lease ($2 \times \$5 \times 10$) which amounts to \$100. This results in an award of \$4,726.90, to which I award the additional sum of \$472.69 under s.281(4)(e) of the MRA to reflect the compulsory nature of the grant of the mining lease, resulting in total compensation under all heads in the sum of \$5,199.59.

Terms of payment

[7] In relation to the terms, conditions and times when payments should be made, I take into account the quantum of the order, the size of the mining lease and the period of the mining lease. In these circumstances, I order that the miner pay the compensation of \$5,199.59 to the current landowners by way of instalments, the first instalment being in the sum of \$2,000 within a period of three months from notification of grant

¹ See *Zoppini v Struber* [2010] QLC 0067.

of the mining lease by the mining registrar, a further payment of \$2,000 on the fourth anniversary date of the grant of the lease, and the balance of \$1,199.59 on the eighth anniversary date of the grant of the lease.

Liberty to Apply

[8] As I have made this decision *ex mero motu*, in the absence of the parties and on my own motion but in circumstances required to purely correct a mathematical mistake, it is appropriate that I grant the parties 35 days from the date of delivery of this decision to apply to vary this decision should either party see any reason to do so.

Orders

1. The orders made on 9 April 2010 be set aside.
2. Total compensation awarded under all heads in the sum of \$5,199.59.
3. The miner pay the compensation of \$5,199.59 to the current landowners by way of instalments, the first instalment being in the sum of \$2,000 within a period of three months from notification of grant of the mining lease by the Mining Registrar, a further payment of \$2,000 on the fourth anniversary date of the grant of the lease, and the balance of \$1,199.59 on the eighth anniversary date of the grant of the lease.
4. The parties be granted 35 days from the date of delivery of this decision to apply to vary this decision should either of them see any reason to do so.

P A SMITH
MEMBER OF THE LAND COURT