

compensation in accordance with the landowner's lawful entitlement by way of determination. As such he held that the Respondents should pay the reasonable costs of the objector.

### **Quantum of costs**

The objector had employed an agent to conduct his case and the agent provided the Tribunal with an assessment of his clients' costs. This assessment though related only to the agents' expenses and it is established that the Tribunal is unable to award costs for a lay representative.<sup>2</sup> Smith DP noted that he had had no argument as to whether the agent's fees were recoverable and accordingly felt that it was not appropriate for him to determine the quantum of costs. Smith DP ordered that the Applicant pay the reasonable costs of the objector, such costs to be agreed between the parties and failing agreement, to be the reasonable costs as taxed by the Registrar of the Tribunal.

## **NON-COMPLIANCE WITH *ENVIRONMENTAL PROTECTION ACT***

### ***Re Redhead***

( [2002] QLRT 24 (Koppenol P) )

### **Background**

This was an application under s 245 of the MRA for a mining lease. The relevant sections of the MRA had been complied with but a provision of the *Environmental Protection Act 1994* (EPA) had not. Section 214 of the EPA provides that an applicant must, within 5 business days after the objection period starts, give the administering authority a statutory declaration declaring whether or not the applicant had complied with certain public notice requirements. Here the Applicant had complied with the public notice requirements but the declaration as to this was lodged 3 weeks late. Section 215(1) of the EPA empowers the administering authority to excuse non-compliance with s 214 if there has been substantial compliance: s 215(2). The Tribunal is not similarly empowered. The administering authority here had not exercised the s 215 power. The question arose as to whether non-compliance with s 214 would result in an invalid mining lease application.

### **Decision**

Koppenol P applying *Project Blue Sky Inc v Australian Broadcasting Authority*<sup>3</sup> stated that the test for invalidity (in respect of statutes generally) was whether it was a purpose of the legislation that an act done in breach of the provision should be invalid. Koppenol P held that the purpose of s 214(1) was to enable the administering authority to be satisfied, early in the objection period, that an applicant had complied with the public notice requirements. It was not a purpose of the EPA that noncompliance with s 214 by late lodgment of a declaration would invalidate a mining lease application, especially where (as here) an applicant had complied with the public notice requirements apart from the lodgment obligation. Koppenol P further stated that the declaration

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<sup>2</sup> *Northern Safecorp Consultants Pty Ltd and Geraldo Bellino v Stanthorpe Shire Council and Denis Parsons and Jacqueline Madeline Parsons* [2001] QLRT 20.

<sup>3</sup> (1998) 194 CLR 355, at 390.

was subsequently lodged and it appeared that no detriment was suffered by any person. Koppenol P recommended that the lease be granted, drawing the Minister's attention to his comments as to ss 214 and 215 of the EPA.

## **SOUTH AUSTRALIA\***

### **“NEW” ENVIRONMENT PROTECTION AUTHORITY**

On 1 July 2002 the Minister for Environment and Conservation, Hon John Hill, announced that the South Australian Environment Protection Authority (EPA) would operate independently from Government. Whilst the operative agency is no longer operating under the umbrella of the Department of Environment and Heritage, legislation has yet to be enacted reflecting this change.

What does this mean for the resources sector within South Australia? This year the EPA has already been playing a more active role in relation to uranium and oil spills within the State; including sending officers to investigate those spills. It is inevitable that the Authority will take an increasingly hard stance on potential environmental damage.

The Premier has indicated that the EPA will gain a range of new powers and tougher penalties are soon to be introduced in legislation.

### **Uranium Mining**

The newly independent Environment Protection Authority now also has the responsibility of monitoring the State's uranium mining industry and radioactive waste storage, which was previously managed by the Radiation Section of the Department of Human Services. The Radiation Protection Branch of the Environment Protection Authority will take a greater role in the reporting of spills and in the monitoring and evaluation of the environmental performance of uranium mines.

### **REGULATIONS UNDER THE *PETROLEUM ACT 2000* AND *MINING ACT 1971***

As of 1 July 2002 Schedule 1 of the *Petroleum Regulations 2000* has been amended providing details of increased fees for Applications and Annual licences. The *Mining Act Regulations*, Schedule 2, has also been amended to reflect increases in fees payable under the Act.

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