

the decision making process of government in this context could not be characterised as the performance of conditions within the MRA meaning, so the Department's consent was not needed.

Public Interest

There were two objections on the grounds of public interest. One was based on the potential for dust and noise impacts on nearby residences. The second objection was from the Department on the basis of the impact of the mining claim on its ability to freehold and sell the land. Kingham DP would have refused the mining claim on these grounds also.

Decision

Kingham DP instructed the Mining Registrar to reject the application.

MINING LEASE APPLICATION*

Re Wesfarmers Curragh Pty Ltd ([2004] QLRT 46 (Kingham DP))

Application for mining lease – Rehabilitation – Cultural heritage management

Background

Wesfarmers Curragh Pty Ltd (Wesfarmers) applied for two mining leases for the purpose of significant extension to its coal-mining venture in the area north of Blackwater – the Curragh North Project. One application covered 4,859.1 hectares of land for the main coal operation and the second application covered 21.9 hectares of land for the purpose of environmental buffer.

Rehabilitation

The proposed project included requirements for significant rehabilitation activities under the *Environmental Protection Act 1994* (EP Act). The applicant sought a term of 40 years for both leases and the tribunal considered this appropriate given the large size of the project and the rehabilitation requirements. Kingham DP noted that the 40-year term would allow Wesfarmers some flexibility in its operations and ensure it had access to the land for rehabilitation purposes.

Kingham DP pointed out that whilst the obligation to carry out the rehabilitation was imposed by the EP Act, authority to access the land was only given under the MRA. Unless rehabilitation is included as a purpose for the grant of a mining lease, the lease holder will be unlikely to have authority to enter the land for purposes only relating to rehabilitation. Kingham DP recommended that consideration be given to including in the mining leases the purpose of undertaking rehabilitation as required by the environmental authority.

Cultural Heritage Management

Wesfarmers conducted extensive negotiations with the Ghungalu and Kangoulu Peoples about the protection and management of the cultural heritage of those groups. A Cultural Heritage Management Plan, under the recently commenced *Aboriginal Cultural Heritage Act 2003*, was finalised containing comprehensive provisions for investigation, consultation and protection of cultural heritage in a co-operative framework. Wesfarmers sought an order that the Plan be made confidential and Kingham DP so ordered.

Decision

Kingham DP recommended the grant of the leases.

* Matt Black, Research Officer to the Presiding Members, Land and Resources Tribunal (Qld).