

# My rights are being undermined, says NSW grazier

Matthew Warren and Imre Salusinszky | *May 31, 2008*

**WHEN NSW grazier Ken Mayberry read in the local newspaper in 2004 that his Mudgee farm, northwest of Sydney, sat on top of a new coalmining exploration lease, he assumed he would have a say in what would happen to it once mining began.**

Legal advice told him his property, which has been in the family for five generations, was protected by a clause in the state's mining act that required mine companies to obtain his consent before they could begin to remove the coal.

The clause has been a windfall for landowners in regions such as the NSW Hunter Valley, who have used it to protect their house and key surface improvements, while sharing in the mineral wealth by negotiating a price well above market rates for their land.

But that all appears to have changed with the 2005 introduction of sweeping new planning powers in NSW, which sought to streamline approval of major projects such as mines, rendering farmers and other landowners powerless to intervene.

The Iemma Government has been using the Supreme Court dispute between mining giant Xstrata and Felix Resources over a future mine that includes Mr Mayberry's property to ensure that farmers and other landholders cannot get in the way.

The NSW minister of both Primary Industries and Mineral Resources, Ian Macdonald, made a submission to the NSW Court of Appeal last month, asking it to override the protection given to farmers in the Mining Act.

"The feeling I've got is that minerals rights just squash agriculture," Mr Mayberry said.

"Even though (Mr Macdonald) wears two hats, if push comes to shove he'll back minerals every time ... It's a worry for us."

NSW Farmers Federation president Jock Laurie admitted he had not been briefed on the government submission to remove farmers' rights in the Supreme Court case. He said farmers should be concerned they no longer had any controlling rights over their agricultural land if mining companies want to move in.

"Once the mining rights are granted by the state government, companies can go and start mining and basically farmers have to do the best deal they can to get compensation, either to sell out or minimise the impact on their business." Mr Laurie said.

NSW Opposition Leader Barry O'Farrell said yesterday the extension of the state Government's power to order farmers to make way for mines, revealed by *The Australian* on Tuesday, was "extraordinary and highlights Labor's failure to stand up for rural interests".

"The enormous powers given to the state planning minister, which are neither transparent nor limited, are letting our community down," he said. "Ultimately this is about Labor's centralisation of planning powers."

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