

'Occupiers' redefined in laws

THE State Government has bowed to public pressure and amended the definition of the term "occupier" to provide more clarity over who can claim damages for compensatable effects of mining and gas activity on private land.

Concerns were first raised by Dalby-based solicitor Peter Shannon late last year as to what and who was defined as an 'occupier' under the relevant legislation.

Following a lengthy investigation, State Parliament recently amended provisions of the Mining and Other Legislation Amendment Bill to clarify the definition of an 'occupier' within resource legislation.

This includes the Mineral Resources Act 1989 and the



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Petroleum and Gas Act 2004.

The new amendments seek to address and clarify the common practice of rural landholders creating various corporate and trust entities to conduct their business on land on which they have a controlling interest. It also covers the creation of various interests in land such as share farming and agistment agreements.

The new definition clarifies the definition of 'occupier' as meaning a person who has a right

to occupy land arising under an Act (such as freehold or leasehold title), a lease registered under the Land Titles Act 1994 or as of right, conferred by a person who has a right to occupy the land.

The Minister for Natural Resources and Mines, Andrew Cripps, told State Parliament that, while the Newman Government believed the existing definition was "sufficiently broad enough to cover the concerns identified," the Agriculture, Resources and Environment Committee had recommended the definition be amended to provide greater certainty.

"I bring to the Parliament's attention there has been no practical evidence of problems asso-

ciated with the definition of 'occupier' in its current form during the two years it has been functioning under the Mineral Resources Act," he told Parliament.

Lawyer Tom Marland of Creevey Russell Lawyers, said the amendments would come as a relief to many farming families in limbo as to whether they could claim compensation for activities on land on which they operated.

"We have heard examples of companies only wanting to negotiate with the 'owners' of land to the exclusion of the actual occupiers," he said. "In one instance, a son was leasing coun-



Andrew Cripps

There has been no practical evidence of problems associated with the definition of 'occupier'.

try from his elderly parents who owned the land and the company would only send notices to them."

Mr Cripps said stakeholders were also concerned about "lack of clarity" on how the definition related to the ability of an owner to confer a right of occupation to

another person.

He told Parliament there would be further investigation, as part of the broader land access framework implementation, into a proposal by the Queensland Law Society and Queensland Resources Council to develop a two-tiered system for mining tenement holders to identify occupiers of land.

Mr Cripps said there were currently inherent difficulties in identifying the occupiers of land when they were not able to be immediately uncovered through a title search, because their occupation rights were not registered on the title.