



The Hon Anthony Roberts MP

Minister for Resources and Energy
Special Minister of State

MEDIA RELEASE

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IMPROVED LAND ACCESS ARBITRATION PROCESS

Minister for Resources and Energy Anthony Roberts today released the NSW Government's response to an independent and comprehensive report into land access arbitration by Mr Bret Walker SC.

Mineral, coal and petroleum exploration activities under exploration licences and assessment leases cannot begin until an access arrangement with a landholder is in place.

Arbitration provides for landholders and exploration licence holders to reach an agreement without having to go to court.

If an agreement cannot be reached, an arbitrator can determine access arrangements, a less costly process than going to court.

The NSW Government commissioned Mr Walker to examine the arbitration framework following concerns raised by stakeholders regarding a lack of information on the process, the role of the arbitrator, perceived conflicts of interest for arbitrators, a need for improved governance and costs associated with arbitration.

Mr Roberts said the NSW Government has accepted all 32 recommendations made by Mr Walker to improve the process for landholders and explorers.

"The changes to be delivered by the NSW Government make the arbitration process fairer, more efficient and more transparent for landholders, explorers and the community," Mr Roberts said.

"Landholders currently pay their own legal costs despite being once only participants, but for explorers this is more often a regular practice.

"Explorers will now bear all costs associated with arbitration, set and capped by an independent expert. Timeframes will also be capped, providing greater certainty for landholders and industry.

"Mr Walker also recommended changes to the appointment of arbitrators, new governance arrangements to manage conflicts, ongoing training and monitoring of the performance of arbitrators.

"It is crucial both sides receive a fair hearing but protracted disputes only increase costs and erode relations between the two parties."

Further reforms to the arbitration process include:

- A new panel of arbitrators to be appointed for a maximum of three years;
- The number of members will be increased from five to 10;
- An eligibility criteria will be established for arbitrators, including minimum qualifications and accreditation;
- A person who is involved in the initial mediation cannot also oversee the arbitration process (current arbitrations will still be completed);
- Public disclosure requirements for arbitrators will be placed on a public register with relevant employment and financial dealings;
- New procedural and compensation guidance will be developed; and
- All documents will be published on the Division of Resource and Energy's website www.resourcesandenergy.nsw.gov.au to ensure anyone can access information on the arbitration process and its principles.

Mr Roberts said the issue of a '*significant improvement*' to a property has been repeatedly contested. An arbitrator will be allowed to make a non-binding decision for both parties. Landholders and explorers will then decide if they want to challenge the matter in court.

"We will request the Land and Environment Court determines disputes quickly in relation to 'significant improvements' so that arbitrations can be settled in shorter timeframes," he said.

31 submissions were received and considered in the final report.

NSW Land and Water Commissioner, Jock Laurie, also facilitated stakeholder group meetings for targeted consultation. These discussions included NSW Farmers, Cotton Australia, The Law Society of NSW and the NSW Minerals Council.

"Mr Walker made it clear the issue of an explorer having the right to access land is a separate issue and outside the terms of reference of the examination," Mr Roberts said.

"Both the NSW onshore resource Acts will be harmonised to reflect these changes and the recommendations will be implemented as quickly as possible.

"I would like to thank Mr Walker and everyone who contributed to making these enhancements to the arbitration process possible."

For more information visit the Division of Resource and Energy's website:

www.resourcesandenergy.nsw.gov.au