Case update - Wilpinjong Coal Pty Limited v Mid-Western Regional Council; Ulan Coal Mines Limited v Mid-Western Regional Council [2012] NSWLEC 277

Date : February 8, 2013

***Wilpinjong Coal Pty Limited v Mid-Western Regional Council*; *Ulan Coal Mines Limited v Mid-Western Regional Council* [2012] NSWLEC 277**

Wilpinjong Coal and Ulan Coal owned properties for which they had to pay rates to Mid-Western Regional Council. Council decided to re-categorise these properties from 'farmland', 'residential', or 'business' to the category 'mining coal' for the purpose of rates. The mines applied to the Council to have the land re-categorised back to the old categories, however the Council refused. The mines appealed this refusal to the Land and Environment Court. Ulan made 20 appeals and Wilpinjong 100.

Due to the substantial number of properties involved, the mines applied to the court to join the causes of action so that they could be dealt with in two separate originating processes rather than 120, arguing that the Court had the power to grant leave "for all of the causes of action to be dealt with in the same proceedings."

Preston CJ rejected the applications, finding that the Court did not have this power because the appeal comprised a merits review under the Local Government Act, distinguishing between a cause of action, which stems from the violation of a right, and a merits review, which does not.

To view the judgment click here(link is external)

Matthews Folbigg, environmental and planning lawyers at Parramatta have specialists who are able to advise in relation to environmental and planning issues.