



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

This document was filed electronically in the High Court of Australia on 19 Jun 2020 and has been accepted for filing under the *High Court Rules 2004*. Details of filing and important additional information are provided below.

Details of Filing

File Number: B34/2020
File Title: Oakey Coal Action Alliance Inc v. New Acland Coal Pty Ltd
Registry: Brisbane
Document filed: Form 24 - Notice of appeal
Filing party: Appellant
Date filed: 19 Jun 2020

Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties and whenever the document is reproduced for use by the Court.

ON APPEAL FROM THE QUEENSLAND COURT OF APPEAL

BETWEEN:

OAKLEY COAL ACTION ALLIANCE INC
Appellant

and

NEW ACLAND COAL PTY LTD
ACN 081 022 380
First Respondent

CHIEF EXECUTIVE, DEPARTMENT OF
ENVIRONMENT AND SCIENCE
Second Respondent

PAUL ANTHONY SMITH, MEMBER OF
THE LAND COURT OF QUEENSLAND
Third Respondent

NOTICE OF APPEAL

1. The appellant appeals pursuant to special leave to appeal granted on 5 June 2020 from part of the judgment and orders 3 and 4 of the Queensland Court of Appeal given on 1 November 2019.

Grounds

2. The Court of Appeal erred in concluding that, although the findings of the Third Respondent were affected by apprehended bias:
 - a. there was no utility in setting aside orders 4-8 made by Bowskill J in the Supreme Court on 28 May 2018;
 - b. it was not open to it to interfere with the orders made in the Land Court by Kingham P on 7 November 2018, which were binding upon the parties;
 - c. it should not remit the matter to the Land Court for a further hearing that was unaffected by the findings of the Third Respondent.
3. The Court of Appeal erred in concluding that it should not set aside the orders of Kingham P made on 7 November 2018 and the decision of the Second Respondent made on 12 March 2019.

Orders sought

4. Appeal allowed, with costs.
5. Set aside order 3 made by the Court below, and in lieu thereof:
 - a. Orders 4 to 8 of the orders made by Bowskill J on 28 May 2018 be set aside.
 - b. The First Respondent's applications be referred back to the Land Court to be reconsidered according to law.
 - c. The recommendations of Kingham P of the Land Court on 7 November 2018 under s 269 of the *Mineral Resources Act 1989* (Qld) and s 190 of the *Environmental Protection Act 1994* (Qld) be set aside.
 - d. The decision of the Second Respondent on 12 March 2019 under s 194 of the *Environmental Protection Act 1994* (Qld) be set aside.
6. Set aside order 4 made by the Court below, and order instead that each party bear its own costs of the appeal and cross-appeal.

Dated 19 June 2020



Andrew Kwan
Environmental Defenders Office
Appellant's Solicitors

TO: The Registrar
Queensland Court of Appeal

AND TO: The First Respondent c/- Clayton Utz, Brisbane
The Second and Third Respondents c/- Crown Law, Brisbane

THE APPELLANT'S SOLICITOR IS:

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