

**COURT OF APPEAL
SUPREME COURT OF QUEENSLAND**

CA NUMBER: *Brisbane*
NUMBER: *CA9986/15*

Appellant: **COAST AND COUNTRY ASSOCIATION OF QUEENSLAND INC**
AND
First Respondent: **PAUL ANTHONY SMITH, MEMBER OF THE LAND COURT OF QUEENSLAND**
AND
Second Respondent: **HANCOCK COAL PTY LTD**
AND
Third Respondent: **MINISTER FOR ENVIRONMENT AND HERITAGE PROTECTION**

NOTICE OF APPEAL

To the respondents

And to the Registrar, Supreme Court of Queensland

TAKE NOTICE that the appellant appeals to the Court of Appeal against the whole of the orders of the Supreme Court of Queensland (Douglas J) in *Coast and Country Association of Queensland Inc v Smith & Anor; Coast and Country Association of Queensland Inc v Minister for Environment and Heritage Protection & Ors* [2015] QSC 260.

1. THE DETAILS OF THE JUDGMENT APPEALED AGAINST ARE -

Date of Judgment: 4 September 2015

Description of Proceedings: SC 4249 of 2014 and SC 9505 of 2014.

Description of parties involved in the proceedings:

In SC 4249 of 2014:

Coast and Country Association of Queensland Inc (Applicant)

v

NOTICE OF APPEAL
Filed on Behalf of the Appellant
Form 64, Version 4
Uniform Civil Procedure Rules 1999
Rule 747(1)

Name: Environmental Defenders Office
(Qld) Inc
Address: 30 Hardgrave Road,
West End, Qld, 4101
Phone No: (07) 3211 4466
Fax No: (07) 3211 4655
E: edoqld@edo.org.au

Paul Anthony Smith, Member of the Land Court of Queensland
(First Respondent)

AND

Hancock Coal Pty Ltd (Second Respondent)

In SC 9505 of 2014:

Coast and Country Association of Queensland Inc (Applicant)

v

Minister for Environment and Heritage Protection (First Respondent)

AND

Minister for Natural Resources and Mines (Second Respondent)

AND

Hancock Coal Pty Ltd (Third Respondent)

Name of Primary Court Judge: Justice Douglas

Location of Primary Court: Brisbane

2. GROUNDS -

1. His Honour erred in construing the *Environmental Protection Act 1994* (Qld) as allowing the Land Court, when considering whether or not to recommend the grant of an environmental authority for the Alpha Coal Mine, to give zero weight to the environmental harm caused by the Scope 3 greenhouse gas emissions produced in transporting and burning the coal obtained as a result of that coal mine, on the basis of the Land Court's finding of harm caused by other mining activities not being those of the Alpha Coal Mine.
2. His Honour erred in construing section 269(4)(j), (k) and (l) of the *Mineral Resources Act 1989* (Qld) as allowing the Land Court, when considering whether or not to recommend the grant of a mining lease for the Alpha Coal Mine, to give zero weight to the adverse environmental impact caused by the operations to be carried on under the authority of the proposed mining lease due to the Scope 3 greenhouse gas emissions produced in transporting and burning the coal obtained as a result of that coal mine, on the basis of the Land Court's finding of adverse environmental impact caused by other mining activities not being those of the Alpha Coal Mine.

3. ORDERS SOUGHT -

1. The appeal is allowed.
2. The decision of the Supreme Court on 4 September 2015 in *Coast and Country Association of Queensland Inc v Smith & Anor; Coast and Country Association*

of Queensland Inc v Minister for Environment and Heritage & Ors [2015] QSC 260 is set aside.

3. The decision of the First Respondent on 8 April 2014 in *Hancock Coal Pty Ltd v Kelly & Ors and Department of Environment and Heritage Protection (No. 4)* [2014] QLC 12 is set aside.
4. Applications SC 4249 of 2014 and SC 9505 of 2014 be remitted to the Trial Division to be determined according to law.
5. The respondents pay the appellant's costs of the appeal and applications SC 4249 of 2014 and SC 9505 of 2014 to the Supreme Court.

LEAVE TO APPEAL

[Pursuant to section 62 of the *Supreme Court of Queensland Act 1991*, leave to appeal is not required.]

~~4. This appeal is brought pursuant to leave given by _____ on~~

~~5. Leave to appeal was given for the following questions—~~

~~(a)~~

~~(b)~~

~~6. Leave to appeal was given because~~

7. RECORD PREPARATION

I/We undertake to cause a record to be prepared and lodged, and to include all material required to be included in the record under the rules and practice directions and any order or direction in the proceedings.

PARTICULARS OF THE APPELLANT:

Name: Coast and Country Association of Queensland Inc
Business Address: 1/20 Brook Street, South Brisbane, Queensland
Applicant's solicitor's name: Sean Ryan
And firm name: Environmental Defenders Office (Qld) Inc
Solicitor's Business address: 30 Hardgrave Road, West End, Qld, 4101
Address for service: 30 Hardgrave Road, West End, Qld, 4101
DX (if any): [none]
Telephone: (07) 3211 4466
Fax: (07) 3211 4655
E-mail address: edoqld@edo.org.au

PARTICULARS OF THE RESPONDENTS:

First Respondent

Name: Paul Anthony Smith, Member of the Land Court of Queensland
Business address: Land Court of Queensland

Level 8, 363 George Street, Brisbane, Qld, 4000

Solicitor's name:

and firm name:

Solicitor's business address:

Address for service: Level 8, 363 George Street, Brisbane, Qld, 4000

DX (if any):

Telephone: (07) 3247 5193

Fax: (07) 3247 4635

E-mail address (if any): landcourt@justice.qld.gov.au

Second Respondent

Name:

Hancock Coal Pty Ltd

Business address:

Level 18, 110 Mary Street, Brisbane QLD, 4000

Solicitor's name:

and firm name:

Solicitor's business address:

Address for service: Level 18, 110 Mary Street, Brisbane QLD, 4000

DX (if any):

Telephone: (07) 3003 5500

Fax:

E-mail address (if any): mail@gvkresources.com

Third Respondent

Name:

Minister for Environment and Heritage Protection

Business address:

Department of Environment and Heritage Protection
Level 7, 400 George Street, Brisbane, Queensland, 4000
GPO Box 2454, Brisbane QLD 4001

Solicitor's name:

and firm name:

Solicitor's business address:

Address for service: Level 7, 400 George Street, Brisbane, Queensland, 4000

DX (if any):

Telephone: 137 468

Fax:

E-mail address (if any):

Signed:

*Jo A Bagg, Acting Principal Solicitor,
Environment Defender
Office Qld.*

Description: Solicitor for the Appellant

Dated: 2 October 2015

This Notice of Appeal is to be served on:

The First, Second and Third Respondents at the addresses for service listed above.

AND

Minister for Natural Resources and Mines
Department of Natural Resources and Mines
Level 17, 61 Mary Street,
Brisbane, QLD, 4000