

**COURT OF APPEAL  
SUPREME COURT OF QUEENSLAND**

CA NUMBER: CA2235/07  
NUMBERS: AML207/06 & ENO208/06

Appellant: **QUEENSLAND CONSERVATION COUNCIL INC**  
AND  
First respondent: **XSTRATA COAL QUEENSLAND PTY LTD & ORS**  
AND  
Second respondent: **ENVIRONMENTAL PROTECTION AGENCY**

**APPELLANT'S LIST OF AUTHORITIES**

**PART A**

**LEGISLATION**

1. *Mineral Resources Act* 1989 (Qld), ss 2, 260-269, 318AK and definition of "the public interest" in Schedule (Dictionary).
2. *Environmental Protection Act* 1994 (Qld), ss 3, 5, 8-17, 196-227, 436-438 and definition of "standard criteria" in Schedule 3 (Dictionary).
3. *Land and Resources Tribunal Act* 1999, ss 49 and 67(2)(b).

**CASE LAW** (in chronological order)

4. *Mummery v Irvings* (1956) 96 CLR 99 at 110.
5. *Sinclair v Mining Warden at Maryborough* (1975) 132 CLR 473.
6. *Dare v Pulham* (1982) 148 CLR 658 at 664.
7. *Commissioner for ACT Revenue v Alphaone Pty Ltd* (1994) 49 FCR 576 at 589-591.
8. *ACI Operations v Quandamooka Land Council* [2002] 1 Qd R 347.
9. *York v General Medical Assessment Tribunal* [2003] 2 Qd R 104 at 115, [30].
10. *Minister for the Environment and Heritage v Queensland Conservation Council Inc* (2004) 139 FCR 24 at [53]-[57].
11. *Armstrong v Brown* [2004] 2 Qd R 345.
12. *SZBEL v Minister for Immigration and Multicultural and Indigenous Affairs & Anor* [2006] HCA 63; (2006) 231 ALR 592 at 599-603 [29]-[49].
13. *Gray v The Minister for Planning and Ors* [2006] NSWLEC 720.
14. *Massachusetts v Environmental Protection Agency* 549 US \_\_ (2007).

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APPELLANT'S LIST OF  
AUTHORITIES  
Filed on behalf of appellant

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**PART B****CASE LAW** (in chronological order)

15. *Life Insurance Co of Australia Ltd v Phillips* (1925) 36 CLR 60 at 78-79.
16. *Water Conservation and Irrigation Commission (NSW) v Browning* (1947) 74 CLR 492 at 505.
17. *Pyx Granite Co Ltd v Ministry of Housing and Local Government* [1958] 1 QB 554 at 572.
18. *Campbell v United Pacific Transport* [1966] Qd R 465 at 472.
19. *Parramatta City Council v Hale* (1982) 47 LGRA 319 (NSWCA) at 338-345.
20. *Cardwell Shire Council v King Ranch Australia Pty Ltd* (1984) 54 LGRA 110 at 114.
21. *Kioa v West* (1985) 159 CLR 550 at 585.
22. *Public Service Board of NSW v Osmond* (1986) 159 CLR 656 at 666.
23. *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 162 CLR 24 at 39-40 and 47.
24. *TNT Skypak International (Aust) Pty Ltd v FCT* (1988) 82 ALR 175 at 178.
25. *O'Sullivan v Farrer* (1989) 168 CLR 210 at 216-217.
26. *Australian Telecommunications Corporation v Lambroglou* (1990) 12 AAR 515 at 524.
27. *Woollahra Municipal Council v Minister for the Environment* (1991) 23 NSWLR 710.
28. *HA Bachrach Pty Ltd v Caboolture Shire Council* (1992) 80 LGERA 230 at 237-238.
29. *Packham v Minister for the Environment* (1993) 31 NSWLR 65 at 66-73 and 88-89.
30. *Collector of Customs v Pozzolanic Enterprises Pty Ltd* (1993) 43 FCR 280 at 287-288.
31. *Collector of Customs v Agfagevert Ltd* (1996) 186 CLR 389 at 396-397.
32. *Wall v Windridge* [1999] 1 Qd R 329.
33. *Wise v Maroochy Shire Council* [1999] 2 Qd R 566 at 569-571.
34. *Re Refugee Tribunal & Anor; Ex parte Aala* (2000) 204 CLR 82 at 109 [59].
35. *Queensland Police Credit Union Ltd v Criminal Justice Commission* [2000] 1 Qd R 626 at 634-635.
36. *Henville v Walker* (2001) 206 CLR 459 at 489-491, [96] and [98].
37. *Yu Feng Pty Ltd v Maroochy Shire Council* [2001] 1 Qd R 306 at 334-336 and 342-343.
38. *Clements v Independent Indigenous Advisory Committee* (2003) 131 FCR 28 at 31-32 and 45-46.
39. *Birdseye v ASIC* [2003] FCAFC 232; (2003) 76 ALD 321 at 324.
40. *Australian Conservation Foundation v Minister for Planning* [2004] VCAT 2029.
41. *McKinnon v Secretary, Department of Treasury* (2005) 145 FCR 70 at [8]-[12].
42. *McKinnon v Secretary, Department of Treasury* [2006] HCA 45; (2006) 229 ALR 187 at [55]-[56].
43. *Comcare v Etheridge* (2006) 149 FCR 522 at 526-530.

44. *HBF Health Funds Inc v Minister for Health and Ageing* (2006) 149 FCR 291 at 292-293.
45. *Ergon Energy Corp Ltd v FCT* (2006) 153 FCR 551 at 565 [51] and 570-573.
46. *Wildlife Preservation Society of Queensland Proserpine/Whitsunday Branch Inc v Minister for the Environment and Heritage* [2006] FCA 736; (2006) 232 ALR 510.
47. *Telstra v Hornsby* [2006] NSWLEC 133; (2006) 146 LGERA 10 at [121]-[124].

#### **EXTRINSIC AND REFERENCE MATERIAL**

48. Land and Resources Tribunal Practice Direction No. 8 of 2000 (Expert Witness Guidelines).
49. Commonwealth of Australia, *National Strategy for Ecologically Sustainable Development* (Australian Government Printing Service, Canberra, 1992) (extract of pages 1-9 only).
50. Definitions of “any”, “appropriate”, “demonstrate”, “discernible”, and “impact” from *The Macquarie Dictionary* (Revised 3<sup>rd</sup> ed, 2001).

#### **Additional cases cited by respondents not included in appellant’s book of authorities**

- *Hoffman-La Roche and Co AG v Secretary for Trade and Industry* [1975] AC 295 at 369.
- *Bailey v FCT* (1977) 136 CLR 214 at 219.
- *Hope v Bathurst City Council* (1980) 144 CLR 1 at 7.
- *McDonald v Director General of Social Security* (1984) 1 FCR 354 at 356-357.
- *Craig v South Australia* (1995) 184 CLR 163 at 179.
- *Hyundai Automotive Distributors Australia Pty Ltd v Chief Justice Officers. Australian Customs Service* (1998) 81 FCR 590 at 599-600.
- *ASIC v DB Management Pty Ltd & Ors* (2000) 199 CLR 321 at 331.
- *Vetter v Lake Macquarie City Council* (2001) 202 CLR 439 at 450-452.
- *Minister for Immigration v Bhardwaj* (2002) 209 CLR 597 at 611-612.
- *Greyhound Racing NSW v Cessnock & District Agricultural Association* [2006] NSWCA 333 at [82] and [86].
- *Bass v TCN Channel Nine Pty Ltd* [2006] NSWCA 343 at [41]-[44].
- *The Secretary, Department of Primary Industries v Samuel Peter Costa* [2007] VSC 88 at [21].

**Stephen Keim SC and Chris McGrath**  
**Counsel for the appellant**  
**1 August 2007**