



Judicial Conference of Australia

**Media release by the President
of the Judicial Conference of Australia
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Response to serious allegations against a judge

The Judicial Conference of Australia wishes to respond to an article in *The Australian* newspaper published on February 22, which contains serious allegations against a judge.

While there has been a lot of media commentary on the decision of the NSW Land and Environment Court in relation to the proposed coalmine at Rocky Hill, so far the Judicial Conference of Australia (JCA) has refrained from commenting.

The JCA takes no issue with those parts of the article in which the author discusses the reasoning in the case (while expressing no views about its correctness or otherwise of the critique). Debate and a critique of judges' reasoning is of course something people in the community are entitled to do.

"The JCA's concern is with the serious allegations of impropriety and dishonesty for which the author has offered no basis other than the fact that he doesn't like the logic of the judge's reasoning," Justice Kelly, the JCA's President, said.

The article titled 'Absurd Rocky Hill Decision Tarnishes the Rule of Law' by Henry Ergas however goes well beyond this to contain unsubstantiated allegations of professional impropriety by a judge.

The article accuses the judge of failing to dispassionately apply the law, of starting from the premise that coalmining is undesirable, and of effectively pre-judging the case. It ends by implying that the judge's reasons for

decision are not his real reasons, but rather “figleaves” designed to cover up the judge’s own biases, prejudices and personal commitments.

“It is very disappointing to read that kind of unsubstantiated personal sledging of a judge from an experienced journalist and eminent academic,” Justice Kelly said. “The author was entitled to criticise the judge’s reasoning: he was not entitled, without any evidence, to impute dishonest motives to the judge and accuse the judge of breaching his duties.”

The Judicial Conference of Australia is the professional association of judges and magistrates in Australia.

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The President of the JCA is not available for broadcast or television interviews on this matter.