

# ENVIRONMENTAL AND PLANNING LAW JOURNAL

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**The technocrat is back: Environmental land-use planning reform in New South Wales** – *Zada Lipman and Robert Stokes*

Thirty years ago, environmental land-use planning in New South Wales was characterised by strong technocratic influences, with plans determined by technical experts employed by central government, leaving few opportunities for community participation. In contrast, the commencement of the Environmental Planning and Assessment Act 1979 (NSW) was hailed as the start of a new era in environmental land-use planning which emphasised environmental protection, power sharing between State and local government, and public participation. A return to technocratic approaches to planning is clearly evident in the Environmental Planning and Assessment Amendment Act 2008 (NSW), which represents the most significant change to the legislative framework for environmental land-use planning in New South Wales in the past decade. This article will evaluate the effectiveness of the recent amendments to New South Wales planning legislation by assessing their consistency with the objects of the principal statute. .... 305

**Flying foxes, dams and whales: Using federal environmental laws in the public interest** – *Dr Chris McGrath*

This article examines the current opportunities and obstacles for public interest environmental litigation at a federal level in Australia. It provides a survey and a series of five case studies of public interest litigation under the Environment Protection and Biodiversity Conservation Act 1999 (Cth). The main conclusions reached are that standing and lack of substantive laws are no longer the major obstacles to public interest environmental litigation in Australia at a federal level. The main obstacles are the threat of adverse costs orders, a general lack of financial resources, and the lack of merits review. These obstacles inhibit public interest litigation enforcing the law and promoting good decision-making by government. The article concludes with recommendations to alleviate these obstacles under the EPBC Act and the emerging climate change regime. .... 324

**Doing the groundwork: State, local and judicial contributions to climate change law in Australia** – *Philippa England*

This article attempts a principled analysis of the contributions made by States, local governments and the judiciary to the development of climate change law and policy in Australia. It organises their contributions around three over-arching legal principles: inter-generational equity; the precautionary principle; and the recognition of climate change as a “common concern”. The article outlines briefly the origin and status of each of the over-arching principles. It then proceeds to explore the relevance and applicability of each principle to domestic climate change issues, focusing on some existing developments in local government, State and judicial fora. Finally, the article speculates on how these principles might continue to contribute to the evolution of climate change law and policy in Australia. It is hoped this discussion of diverse domestic measures in the context of three over-arching, thematic principles will ensure that State, local government and judicial experience to date serves to inform and enrich national policy development and the ongoing evolution of climate change law. .... 360



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