

ENVIRONMENTAL AND PLANNING LAW JOURNAL

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ARTICLES

Biodiversity conservation, local government finance and differential rates: The good, the bad and the potentially attractive – *Andrew H Kelly and Natalie P Stoianoff*

Local councils in New South Wales and across Australia are constrained by insufficient financial resources. This inhibits functional expansion and service improvement in non-traditional but growing areas of operation. A ready example is biodiversity conservation, where councils are under pressure to lift their game. The focus here is on local government's key funding source, namely "rating", and its implications for protecting the natural environment. As a traditional property tax, rating generally falls outside the biodiversity conservation toolbox. This raises the idea of utilising one specific aspect of rating – the categorisation and sub-categorisation of rated land – as a potential mechanism for conservation purposes. In order to achieve this, statutory and policy change is necessary, including review of the longstanding rating benefit given to farmlands. The crux of this article is the potential benefits of introducing a new rating category for conservation purposes.

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The New South Wales planning reforms: Undermining external merits review of land-use decision-making? – *Linda Pearson and Peter Williams*

The Environmental Planning and Assessment Amendment Act 2008 (NSW), when fully implemented, will make some of the most significant changes yet seen to the New South Wales planning and development control system established 30 years ago. These include changes to the system of determinations, reviews and appeals, and the introduction of new review bodies. This article considers the likely impact of those changes on the role of the Land and Environment Court in providing guidance for first instance decision-makers, and in the quality of development control decisions generally, against the background of major procedural and other reforms implemented by the court in recent years.

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Legislative and policy challenges for the protection of biodiversity and bushland habitats: An evidence-based approach – *Mark Patrick Taylor and Christopher Ives*

Balancing the needs of biodiversity in the context of ecologically sustainable development remains a challenging and ongoing issue for consent authorities, developers and scientists alike. This article explores some of the practical, scientific, legislative and policy issues facing the protection of biodiversity in the context of urbanisation. The application of legislative and policy instruments to environmental decision-making needs to be complemented with more site-specific, evidenced-based research and with regard to the biodiversity of the broader landscape. It is argued that such an approach will help determine more accurately the likely long-term environmental outcomes that can be expected from setbacks, offsets, buffers and corridors within urban landscapes. In examining the question of setbacks adjacent to development, various relevant examples of court decisions are considered. In addition, a range of recent research studies are used to show that riparian zones are ecologically distinct as compared with non-riparian bushland. In addition, riparian corridor width is shown to influence the composition of flora and invertebrate fauna communities, supporting the use of wide buffers to maximise

biodiversity outcomes. The application of site-specific empirical findings in biodiversity planning and decision-making will help limit and mitigate the key threatening processes of clearing and fragmentation. 35

The impact of Queensland’s regulatory waste management framework on the uptake of regional synergies – *M Davis, GD Corder and DJ Brereton*

Regulatory frameworks can significantly affect the development and uptake of initiatives to recycle or re-use wastes and by-products in an industrial region, commonly referred to as regional synergies. Too many minor regulatory barriers discourage an organisation from investigating opportunities to recycle, re-use or recover their wastes or by-products. On the other hand, frameworks with facilitating mechanisms or suitable financial incentives can provide the necessary inducement for organisations to develop successful regional synergy initiatives. This article reviews Queensland’s regulatory waste management framework and discusses their effect on the development of regional synergy initiatives, with particular reference to some of the practical aspects and issues of synergy development in the Gladstone industrial region in Queensland. 49

Managing recreation, conservation and economy: A critical appraisal of the New South Wales Marine Parks Amendment Act 2008 – *Scott Hickie*

This article examines the planning reforms to Marine Park management in New South Wales implemented by the recent Marine Parks Amendment Act 2008 (NSW). It considers how the Marine Park zoning processes attempt to balance a range of conservation and extractive user values in achieving biodiversity objectives and a comprehensive, adequate and representative system of marine ecosystems. Achieving this balance does not occur in isolation from national and international marine biodiversity frameworks. Consistency between State and federal Marine Protected Area management is fundamental to building a resilient marine conservation system. While the Amendment Act modernises zoning, public participation and engagement and development approvals, it does not harmonise federal and State approaches to Marine Protected Area Management. This article highlights a range of opportunities for integrated marine ecosystem management by harmonising the New South Wales Marine Park system with federal management processes under the Environment Protection and Biodiversity Conservation Act 1999 (Cth). 61

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