

# ENVIRONMENTAL AND PLANNING LAW JOURNAL

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## ARTICLES

**New directions in urban biodiversity conservation: The role of science and its interaction with local environmental policy** – *Christopher D Ives, Mark Patrick Taylor, David A Nipperess and Peter Davies*

The conservation of biodiversity is a well-established principle of ecologically sustainable development and is an integral part of environmental policy and legislation in Australia. How the concept of biodiversity as understood by scientists and policy makers is reflected in environmental planning instruments and law and managed at various scales is another matter entirely. This article contends that if strategies are to be effective in reducing the dramatic decline in biological diversity, they must be founded upon clear, holistic and workable concepts of biodiversity that are grounded in science and positioned within a spatial hierarchy. For urban areas that rely greatly on local government policy, practice and regulation to manage natural assets, more effective utilisation of scientific knowledge about a range of biodiversity attributes at local and regional scales is needed. This will enable local government authorities to plan strategically for biodiversity across all land uses and multiple scales, thus minimising the loss of bushland and mitigating against ecological impacts resulting from increased development pressure. However, this article argues that this will only be realised through the establishment of planning policies and management strategies with meaningful and achievable conservation goals, integration of regional conservation priorities, and consideration of community values and economic and socio-political connections. ....

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**What can Australia learn from the Europeans about public participation? Article 6 of the Aarhus Convention and environmental impact statements**  
– *Victoria Lambropoulos*

The United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) is the only international convention that is exclusively devoted to public participation in environmental matters. Although it is European in origin, much of the detail of the Convention draws upon national environmental legislation, including aspects of the Australian environmental legal system. This article compares the public review provisions relating to environmental impact statements in Australia with Art 6 of the Convention governing “Public Participation in Decisions on Specific Activities”. The article finds that much of the Australian laws with some exceptions satisfy the minimum requirements of public participation in Art 6. ....

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**A comparative approach to Indigenous legal rights to freshwater: Key lessons for Australia from the United States, Canada and New Zealand** – *Melanie Durette*

This article compares Indigenous legal rights to water across four countries: the United States, Canada, New Zealand and Australia. Through this comparison, it identifies gaps in how the legal system in Australia accounts for the range of interests that Indigenous people have in water – from customary through to commercial. The law in relation to three main areas is considered: native title rights, commercial rights, and management

rights. This article discusses how, in each of these countries, Indigenous water rights that relate to native title have been limited to rights that are customary in nature. The article further looks at how this narrow conceptualisation restricts the content and scope of Indigenous water rights, and effectively limits not only the ability of Indigenous people to develop resources for economic purposes but also to manage water in such a way that exercises traditional responsibilities and provides for future generations. A comparison of Indigenous legal rights to water in Australia vis-à-vis other countries nations identifies how the Australian government can better account for the full spectrum of water interests held by Indigenous people across the country. .... 296

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    - <sup>2</sup> Hayton, n 1, p 286.
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