

# LOCAL GOVERNMENT LAW JOURNAL

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ARTICLES

**Proposed Development Assessment Panels in South Australia – Improving the impartiality of development assessment decisions – *Paul Leadbeter***

This article examines proposed changes to the *South Australian Development Act 1993* which will result in the removal from local councils of the direct decision-making function on development assessment matters. Instead, councils will be required to establish Development Assessment Panels with a mixture of council and non-council specialist members. Council members (whether elected members or officers of the council) will be in the minority on such panels. These changes are intended to create greater confidence in the impartiality of development assessment decisions and the timeliness of those decisions. .... 17

**Reconciling neighbourhood disputes in the context of Development Applications – *Paul Vergotis***

Reconciling neighbour disputes in planning disputes is never an easy task. One of the key objectives of the *Environmental Planning and Assessment Act 1979* (NSW) (EPAA) is to promote and encourage public participation in the planning process. Over the past 25 years there have been myriad processes and procedures used by consent authorities to reconcile the competing interests of development application proponents and neighbouring residents. These processes have had mixed success. The more successful approaches which have produced tangible results are the participatory mechanisms of Independent Hearing and Assessment Panels and mediation. Both have proved to be not only more “user friendly” to developers and the uninitiated resident objector, but

moreover have been effective in producing better quality planning outcomes. Despite these dispute resolution techniques, on occasions objecting neighbours have resorted to the “opening standing” provisions under the EPAA to get their point across. Although such actions have been infrequent in the overall scheme of development assessment since the introduction of the EPAA in 1980, there have been nonetheless a number of significant challenges to the validity of development consents and the assessment processes and procedures used by consent authorities. Most notably the principles established in *Porter v Hornsby* in the late 1980s have paved the way for fundamental checks and balances to be embedded in the way development applications are assessed.

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**Environmental implications of land taxes on principal places of residence – Robert Stokes**

In *Progress and Poverty*, Henry George advocated land taxation as a way to encourage landowners to put their land to its highest and best use. This promoted sound social objectives at the time, since it discouraged speculation and inefficient use of otherwise productive agricultural land. This article posits that in a different century and a different context, encouraging the highest and best economic use of land could lead to negative environmental consequences as over-development is allowed or even encouraged as a means of minimising land value taxation on primary places of residence. By examining the example provided by the premium property tax in New South Wales, this article identifies the environmental impacts of this form of taxation and the implications of these impacts for local government and then considers changes to the land tax system that have followed the abolition of the premium property tax, including the reforms identified in the recent New South Wales Budget. ....37

**Use of restorative justice as an alternative approach in prosecution and diversion policy for environmental offences – RM Fisher and JF Verry**

The authors examine the possibility of a restorative justice approach to environmental offences under the *Resource Management Act 1991* (NZ). A number of recent prosecutions under this Act have incorporated restorative justice principles in sentencing, as a result of legal reform which occurred in New Zealand in 2002. That reform has created opportunities to apply restorative justice in sentencing, and in diversionary programs for environmental offending. Its application complements new sentencing options now being practised in other countries, including Australia, which attempt to redress indirect harm from environmental crimes that often lack human victims. The case studies to date suggest that a restorative justice approach may be useful for local authorities when prioritising enforcement options for environmental offending.

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  - 7. Sheehy et al, n 6 at 221.

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