

# LOCAL GOVERNMENT LAW JOURNAL

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CASENOTES: SUPREME COURT OF THE ACT AND NEW SOUTH WALES COURT OF APPEAL

***Rob Campbell-Watt and James Johnson*** ..... 69

## ARTICLES

### **IDAS – more, or less, integrated? – Rosanne Meurling**

The *Integrated Planning Act 1997* (Qld) promised to create a framework for integrating development assessment. This article will explore whether the Integrated Development Assessment System (IDAS) delivers on this promise. IDAS provides a framework, but without a detailed appreciation of legislation, regulations and policy documents which exist outside of IDAS and the Act, operating within IDAS is not possible. While the ability to use IDAS as a “one stop shop” exists, the reality is that trying to obtain all approvals simultaneously for a complex project will not be feasible. .... 74

### **New South Wales Heritage Act – lion or mouse? – Caitlin Allen**

The New South Wales *Heritage Act* was introduced in 1977 to protect the important heritage places that form part of our environment and our identity. Over the last 28 years the penalties in the Act have changed a number of times. The financial penalties have increased and new penalties restricting development have been added. This article considers whether these penalties could now be considered too harsh. The value of heritage places and their irreplaceability are considered as a justification for tough penalties. The difficulties applying penalties in a climate of non-enforcement and low funding and the lack of prosecutions in New South Wales are compared to systems in other states in Australia and New Zealand. Alternative mechanisms available for enforcing heritage regulations are discussed. The article concludes that while the harshness of the penalties is irrelevant if they are not enforced, the threat of severity is an important deterrent while the restrictions on enforcement persist. .... 88

**Planning principles: Policy-making by the Land and Environment Court –  
*David Galpin***

The Land and Environment Court has recently taken steps to formalise the making and application of planning principles. This paper examines those principles and characterises them as administrative policies, entitled to no greater weight in determining development applications than policies of the executive government. The desirability of having a court set such policy is considered. The paper also explores some of the legal issues arising when the court makes policies and applies them in the context of individual cases. There is a need to avoid promulgating inflexible rules, to continue to decide cases on their individual merits and to comply with the rules of natural justice. .... 94

**Facilitating picnics and nature rambles: Conserving nature for recreation on local government open space – a viable option? – *Dr Andrew H Kelly***

This article examines the conservation of biological diversity in public open spaces which are owned or governed by local government in New South Wales. The article highlights, using both historical perspectives and legal examples, how local government's cultural heritage can work directly against conservation – and shows how even passive recreation in bushy parks can be ecologically detrimental. This article raises the need for a detailed and critical analysis of the legislative provisions under Ch 6 of the *Local Government Act 1993* (NSW), especially in relation to plans of management for community land. Whilst there is opportunity to review aspects of the statutory framework, this article shows that the main problems are more deeply rooted. .... 109

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