

LOCAL GOVERNMENT LAW JOURNAL

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CASENOTE

- Exceptions to the three month time limit under s 101 of the Environmental Planning and Assessment Act 1979 (NSW)** 77

ARTICLES

Local government autonomy in Australia/New South Wales and Switzerland/Graubünden, with a particular regard to the environment – *Kaspar Sollberger*

Local government has different historical roots in different countries. However, the functions of local government are substantially the same in modern nations. Notwithstanding this observation, powers between the different tiers of government are regularly adjusted and reallocated. In any review process, a study of comparative law can help to position a nation within the different political and legal systems, and to suggest alternatives to existing mechanisms. The following article provides a cross-border comparison between local government in Australia and Switzerland, both “classic” federations. It compares the kind and degree of autonomy of local government bodies, taking the State of New South Wales and the Canton of Graubünden as examples for the second tier of government. A particular regard is made to the environment, where local government is particularly involved. The article shows that, due to mainly historical reasons, local government in Switzerland generally enjoys a higher degree of autonomy, particularly in a structural and organisational respect, than it does in Australia. 82

Does the Environmental Planning and Assessment Act 1979 (NSW) or right to farm legislation provide a solution to the issue of rural land use conflict? – *Helen McNeil*

While some areas of Australia are continuing to battle against the ravages of what is being touted as the worst drought on record, a battle of a different kind is being waged at the rural-urban fringe. The allure of wide open spaces, peace, tranquillity, clean air and an uncomplicated life often fuel the desire to escape city living. However, the practical reality of rural life does not always accord with this utopian impression of rural living. Government at all levels has a critical role in managing the issues associated with urban expansion. While the development and adoption of strategies designed to preserve the rights of existing rural land users and accommodate the needs of a rapidly expanding population are critical, the government must first acknowledge that there is a problem. This article seeks to explore some possibilities for the future to minimise occurrences of rural land use conflict. 98

Dispensing with Development Standards by the Land and Environment Court – *Andrew Edgar*

The power to dispense with standards has been a feature of building and development regulation in New South Wales since the nineteenth century. Since 1980 the power has been included in State Environmental Planning Policy No 1-Development Standards. The Standard Local Environmental Plan will introduce a new version of the dispensation

power. In this context, it is appropriate to examine approaches that have developed for applying the dispensation power. This article focuses on the approaches developed by the Land and Environment Court. It suggests that a conservative approach is appropriate for application of the new dispensation provision in order to make sure that the development standard is not undermined and that general planning changes are not made. 112

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