Index

Vol No 12, Parts 1 - 4, 2007

Appeals and Inquiries

Administrative review principles Jurisdictional fact doctrine, 16

Costs, 133

Exceptions to time limit to appeal in NSW, 77

Fees in, 143

Expert evidence in, 142

Jurisdictional error, 164

Objector evidence, 143

Privative clauses preventing, 77

Australian Capital Territory

Development assessment and building processes, 219

Brothels

Characterisation of, in NSW, 5

Casenotes

Busen Pty Ltd v City of Subiaco [2007] WASAT 49, 201

Gales Holdings Pty Ltd v Tweed SC [2006] NSWLEC 591, 135

Garrett v Freeman (2006) 147 LGERA 96, 203 Garrett v Freeman [No 3] [2007] NSWLEC 139, 203

GPT Re Ltd v Wollongong CC (2006) 150 LGERA, 137

Hunter Development Brokerage Pty Ltd v Cessnock CC [No2] (2006) 150 LGERA, 133

Leichardt C v RTA (2006) 149 LGERA 439, 212 Lesnewski v Mosman MC (2005) 138 LGERA 207, 79

Maisano v Port Phillip CC [2007] VCAT 62, 202 Maitland CC v Anambah Homes Pty Ltd (2005) 147 LGERA 234, 77

Randall Pty Ltd v Willoughby CC (2005) 144 LGERA 119, 79

Residents Against Improper Development Inc v Chase Property Investments Pty Ltd (2006) 150 LGERA, 136

Climate change

United Nations Framework Convention on Climate Change, 230

Commonwealth

Climate change, 230

Energy efficiency opportunities, 149

Community Consultation and Participation

Major development and infrastructure projects, 240

Community Land

Compulsory acquisition of, compensation for, 212

Conservation and Biodiversity

Autonomy of local government and, 82 Convention on the Conservation of Biological

Diversity 1992, 252

Environmentally sustainable development and soils, 252

National emissions trading rights, 230

Soil management, ecosystem approach to, 252 tree, disputes between neighbours, considerations for court (NSW), 228

Development Applications

Private certification of development in NSW, 53

Development Assessment

Brothels in NSW, 5

Contaminated land, 36

Critical infrastructure approvals,

Development assessment panels, 160

Environmentally sustainable development and soils, 252

Exempt development in ACT, 219

Existing use rights, 139

Intergenerational equity, principle of, 227

Major development and infrastructure projects, 240

Private certification of development in NSW, 53

Sex services premises (NSW), 5

Smoking in taverns, 201, 202

Development Consents

Breaches of (NSW), 188

Planning conditions, monitoring of, in, 183

Private certification of development in NSW, 53, 187

Privative clauses preventing appeals, 77

Smoking in taverns, conditions regarding, 201

Environment

Contaminated land and local government powers,

Costs in criminal matters, 140

Ecosystem approach to soil management, 252

Energy efficiency opportunities, 149

Environmental rights in the natural order, protection of,

Environmentally sustainable development and soils, 252

Greenhouse gas abatement scheme, 230

Immunity in respect of offences, 203

Kyoto Protocol, 230

Land tax, implications for,

National emissions trading rights, 230

Neighbourliness and "hobbies",

Soil management, ecosystem approach to, 252

Environmental Planning

Australian Capital Territory, in, 219

Autonomy and, 82

Australian National Competition Policies, 53

Contaminated land and local government powers,

Development standards, dispensing power (NSW), 98

Energy efficiency opportunities, 149

Environmentally sustainable development and soils, 252

Existing use rights, 139

Integrated Development Assessment System (Q),

Major development and infrastructure projects, 240

Neo-liberalism and its broad implications for, 53

Privative clauses, 77

Purchase of development rights (PDR), 98

Right to farm legislation, 98

Rural-urban fringe environmental planning, 98

Smoking in taverns, 201

Standard Local Environmental Plan, 112

Transfer of development rights, 98

Land and Environment Court of New South Wales

Annual Report of, 2005, 141

Brothels, approach of, 5

Civil proceedings in, 188

Costs, 133, 191

Criminal matters, in, 140, 191

Criminal proceedings in, 189

Fees in, 143

Expert evidence in, 142

Land valuations, Practice Direction in Land and Environment Court (NSW), 143

Objector evidence, 143

Privative clauses, 77

Retirement of Justice Bignold of, 226

Robing of practitioners, 227

Witness evidence in, 142

Local Governments

Autonomy, 82

Contaminated land and local government powers,

Development assessment decisions, curtailment of role of councils in, 155

Immunity from criminal prosecution (NSW), 203

New South Wales

Autonomy of local government in, 82

Brothels, planning approach to, 5

Climate change, international law and legislation in, 236

Construction certificates, retrospective, 140

Contaminated land and local government powers, 36

Contracts, councils, accountability for,

Costs in criminal matters, 140

Critical infrastructure projects, 240

Existing use rights, 139

Greenhouse gas abatement scheme, 230

Immunity from criminal prosecution (NSW), 203

Jurisdictional fact doctrine in local government and environmental planning law, 16

Major development and infrastructure projects,

Native vegetation and climate change in, 237

Planning conditions, monitoring of, in, 183

Private certification of development in NSW, 53, 187

Privative clauses, 77

Public parks and open spaces

conservation of biological diversity in, 252

Right to farm legislation, 98

Soils and ESD principles in, 252

Standard Local Environmental Plan, 112

Offences and Penalties

Costs in criminal matters (NSW), 140

Energy efficiency opportunities legislation, penalties, 154

Heritage

Restrictions on development, enforcement and penalties,

Immunity from criminal prosecution (NSW), 203

Public Parks and Open Spaces

Conservation of biological diversity in, 252

Recreation

Public parks and open spaces conservation of biological diversity in (NSW), 252

Rural land

Rural-urban fringe environmental planning, 98

Oueensland

Contaminated land and local government powers, 36

South Australia

Development assessment decisions, curtailment of role of councils in, 155

Statutes, Bills and Regulations

Agricultural Practices (Disputes) Act 1995 (WA), 98

Building Legislation (Quality of Construction) Act 2002 (NSW), 53

Building Professionals Bill 2005 (NSW), 53

Carbon Rights Legislation Amendment Act 1998 (NSW), 237

Catchment Management Authority Act 2003 (NSW), 252

City of Sydney Improvement Act 1879 (NSW),

Coastal Protection and Management Act 1995 (Old).

Constitution (Cth), 77, 82, 98, 252

Contaminated Land Management Act 1987 (NSW), 36

Convention on the Conservation of Biological Diversity 1992, 252

Conveyancing Act 1919 (NSW), 36, 98, 237

Courts Legislation Amendments Act 2006 (NSW), 140

Criminal Procedure Act 1986 (NSW), 140, 203

Development Act 1993 (SA), 155

Development (Panels) Amendment Act 2006 (SA), 155

Development (Sustainable Development) Amendment Bill 2005 (SA), 155

Disorderly Houses Act 1943 (NSW), 5

Disorderly Houses Amendment Act 1995 (NSW), 5

Electricity Supply Amendment (Greenhouse Gas Emission Reduction) Act 2002 (NSW), 236 Energy and Utilities Administration Act 1987 (NSW), 238

Energy Efficiency Opportunities Act 2006 (Cth), 149

Energy Grants (Cleaner Fuels) Scheme Act 2004 (Cth), 238

Environmental Planning and Assessment Act 1979 (NSW), 5, 16, 36, 53, 77, 83, 98, 112, 133, 139, 164, 183, 212, 226, 238, 240

Environmental Planning and Assessment Amendment (Infrastructure and other Planning Reform) Bill 2005 (NSW), 98, 240

Environmental Planning and Assessment Regulation 2000 (NSW), 53, 139, 183

Environment Protection Act 1994 (Qld), 36

Environment Protection Act 1994 (Vic), 36

Environment Protection and Biodiversity Act 1999 (Cth), 230, 252

Forest Act 1991 (Cth), 83

Home Building Act 1989 (NSW), 183

Land Acquisition (Just Terms Compensation) Act 1991 (NSW), 36, 212

Land and Environment Court Act 1979 (NSW), 112, 133

Land and Environment Court Rules (NSW), 133 Land (Planning and Environment) Act 1991 (ACT), 219

Local Government Act 1919 (NSW), 112

Local Government Act 1993 (NSW), 82, 203, 212

Local Government Act 1999 (SA), 155

Local Government (General) Regulations 1999 (SA), 155

Local Government (Financial Assistance) Act 1995 (Cth), 82

Migration Legislation Amendment (Judicial Review) Act 2001 (Cth), 77

National Parks and Wildlife Act 1979 (NSW), 203

Native Vegetation Act 2003 (NSW), 237

Natural Resources Commission Act 2003 (NSW), 252

Ozone Protection and Synthetic Greenhouse Gas Management Act 1989 (Cth), 234

Planning and Development Bill 2006 (ACT), 219 Primary Industry Activities Protection Act 1995 (Tas), 98

Protection of Agricultural Production (Right to Farm) Bill 2006 (NSW), 98

Protection of the Environment Act 1983 (Cth), 83 Protection of the Environment Operations Act 1997 (NSW), 36, 92, 203

Public Works Act 1912 (NSW), 212

Renewable Energy Electricity Act 2000 (Cth), 237

Soil Conservation Act 1938 (NSW), 252

Standard Instrument (Local Environmental Plans) Order 2006 (NSW), 83, 112

State Environmental Planning Policy No 1 – Development Standards (NSW), 16, 112, 164

State Environmental Planning Policy No 52 – Farm Dams and Other Works in Land and Water Management Plan Areas (NSW), 98

State Environmental Planning Policy No 30 – Intensive Agriculture (NSW), 98

State Environmental Planning Policy (Major Projects) 2005 (NSW), 240

Strata Schemes Legislation Amendment (Strata Approvals) Act 1999 (NSW), 53

Summary Offences Act 1988 (NSW), 5

Threatened Species Conservation Act 1995 (NSW), 203, 238

Trade Practices Act 1974 (NSW), 36

Trees (Disputes between neighbours) Act 2006 (NSW), 228

Valuation of Land Act 1916 (NSW), 212

Western Lands Act 1901 (NSW), 252

World Heritage Properties Conservation Act 1983 (Cth), 98

Tasmania

Right to farm legislation in, 98

Valuation of Land

Compulsory acquisition, compensation, 212 Practice Direction of Land and Environment Court regarding, 143

Western Australia

Right to farm legislation in, 98 Smoking in taverns, 201