

LOCAL GOVERNMENT LAW JOURNAL

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A comment on the proposed Environmental Planning and Assessment Amendment Bill 2008 – MG Craig QC, PW Larkin and CD Norton

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| The New South Wales government recently released draft legislation to amend the Environmental Planning and Assessment Act 1979 (NSW) (EPA Act) and other consequential amendments. The proposed changes to the planning system are significant and impact on the role of local government and the New South Wales Land and Environment Court. The reforms have attracted many comments. The New South Wales Bar Association prepared a brief comment on some of the specific amendments contained in the exposure draft focusing on the impact of amendments dealing with rights of merits appeal against decisions with regard to development applications. The following commentary should not be viewed as an exhaustive examination of the legislation and the potential consequences of the changes. The article does not cover all the material in the Draft Bill. It is written to assist readers in understanding some of the complexities involved in the far-reaching changes currently proposed to the planning system in New South Wales. | 35 |
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Liability of councils and council officers for criminal and civil liability – some thoughts on recent cases – Jeremy Morris

The year 2007 brought with it a number of cases of significance to public authorities and their officers who are exercising the various statutory functions of council. I do not address all of them in this article. The courts have reconsidered and refined the issues regarding the exposure to criminal and civil prosecution of the individual employed by a council, exercising his or her statutory functions, and the exposure of the council for the omissions of its own officers. These issues have implications for both criminal and civil liability, as

the cases I have selected will show. The recent cases illustrate the diverse implications of the relationship and their significance for risk management, insurance, contractual arrangements and employee relations. 44

Climate change adaptation – socialising the science – *Jennifer Scott, Louise Hayward and Andrew Joyce*

Local government has a duty to manage land, infrastructure and natural assets in a manner consistent with the Precautionary Principle. Recent judgments confirm the need for government to ensure risk responses are proportionate to the risk scale and magnitude. Climate change modellers have predicted future climate shifts that highlight significant caveats regarding uncertainty, which creates dilemmas for determining appropriate responses. Ku-ring-gai Council has embarked on the development of a strategy that applies the principles of Ecologically Sustainable Development (ESD) within a Quadruple Bottom Line reporting framework to establish risk priorities and identify locally relevant and timely responses. A benefit/cost framework using the ESD principles has been explored to enable a more accurate system of identification of priority areas for investment in mitigation and adaptation. This tool provides council with a transparent, community referenced direction to build long-term climate change policy. 52

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