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ARTICLES

Enforcement of environmental and planning laws in New South Wales – Hon Justice Brian J Preston

Environmental laws, to be effective, need to be enforced. Prior to the development of open standing and civil enforcement provisions in New South Wales, the responsibility fell on government agencies administering the statutes to bring prosecutions in order to enforce compliance with environmental legislation. Over time, wide powers of civil enforcement and open standing provisions were adopted to allow any person to bring proceedings in the Land and Environment Court to remedy or restrain a breach of environmental legislation. Individuals may now even prosecute criminal proceedings in certain circumstances with leave of the court. The range of administrative measures available to government agencies to promote compliance with the law has also greatly expanded. This article will canvas the variety of criminal, civil and administrative tools for enforcing environmental laws in New South Wales. 72

Droughts, floods and South East Queensland water reform – Part 3 – Michael Walton

This is the third and final part of a series of articles (see 2009 15 LGLJ 46 and 2010 15 LGLJ 140) on water reform in South East Queensland. This part focuses on the changes introduced by the South East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010 (Qld) assented to on 23 May 2010. In particular, this article will focus on the powers of the three distributor-retailers and the role of the new entities in the planning and development process. 86

Development assessment and approval in the Australian Capital Territory – Hanna Jaireth

This article provides a very brief overview of planning, development assessment and approval processes in the Australian Capital Territory. The limited appeal mechanisms available, particularly at the Commonwealth level, are noted. Expectations have been raised following reviews by Dr Allan Hawke AO of both Territory and Commonwealth processes, that better integration and improved Commonwealth funding and review mechanisms may be imminent. At the Territory level, recent administrative reforms have streamlined and centralised decision-making powers. At the Commonwealth level, previous reviews have come and gone to little effect, but this round of recommendations may be received more positively, and will be scrutinised closely. 94

The role of Strategic Environmental Assessment in Environmental Impact Assessment and the law – Adam Koutsamanis

Endeavours in achieving Ecologically Sustainable Development have driven the need to find effective measures that can assess the impact of human development on the natural environment. An Environmental Impact Assessment has been praised as one such measure that has been reasonably effective in assessing the environmental impacts of site-specific projects. However, as the environmental industry is beginning to discover, today's governments often adopt policies whose environmental implications completely overshadow the impacts of individual development projects. For this and many other reasons, the need for Strategic Environmental Assessment has become plainly obvious. 99

Corruption risks with the development approval process – John Mant

This article was given as a speech at the 17th Annual Public Sector Fraud and Corruption Conference in Canberra (November 2010). It looks at the nature of development approval decisions and the corruption risks inherent in the current system. Concentrating on New South Wales, the article discusses the differing approaches of the Independent Commission Against Corruption, and suggests ways by which the transparency of the current processes could be increased. 111

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