

# LOCAL GOVERNMENT LAW JOURNAL

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## **A reformed local government – John Mant**

This article proposes a redesign of local government based on an outcome, services and regulatory division of functions and organisation, and the application of the separation of powers' principles to the governance arrangements of councils. The proposed model provides an organisation structure that reflects the roles of local government in providing effective community governance, efficient service provision and fairness in the administration of regulation. This article is intended to provoke discussion on models for the future of local government in Australia. .... 131

## **Consultation requirements under New Zealand's Local Government Act 2002: Lessons to date – Richard M Fisher**

New Zealand's *Local Government Act 2002* resulted in major reform of local government decision making. Increasingly unworkable, overly prescriptive legislation was replaced by a general power of competence which allows local authorities to make a wide variety of decisions about matters of local importance. The power is balanced by strict consultation requirements. In addition to general principles of consultation with which authorities must conform, there are specific requirements to consult with respect to several types of planning decisions, including special requirements for consultation with Maori. The purpose and principles of consultation are broad and inclusive, but have created issues of cost, and effectiveness. These issues have been exacerbated by New Zealand's current economic situation, and by current local government reform. This reform is associated with the restructure of Auckland governance, and by a greater desire by the national government to have a say in local decision making. Lessons to date are discussed, in order to determine what they reveal about New Zealand's journey towards best practice in consultation. .... 143

## **When is a climate change adaptation model good enough to inform public policy? Climate change adaptation risk management in local government – Jennifer Scott and Judith Preston**

Climate change adaptation is a vexed public policy challenge that has necessitated a quick response to manage risk in a rapidly evolving, dynamic environment. Problems occur partly because of the unknown scale of risk arising from increasing atmospheric CO<sub>2</sub> concentrations. This combined with the range and magnitude of the potential spatial and chronological impacts evolving from climate change makes formulating an adequate, appropriate and justifiable response challenging. Legal principles guiding decisions in the courts provide some leadership for councils to determine whether adaptations are sufficient. It is argued that it is the quality of the process governing the determination of the adaptations selected that will protect local government from accusations of maladaptation. This article outlines the challenges in formulating and devising guidelines for adaptation decisions. It considers the relevance and utility of evidentiary tests developed at common law to assess the adaptation choices and whether funds have been used responsibly. .... 152

## **Characterising development in New South Wales – Scott Nash**

This article discusses the applicable principles of characterising development in New South Wales. It focuses on *Chamwell Pty Ltd v Strathfield Council* (2007) 151 LGERA 400, and its application in the case of *Abret Pty Ltd v Wingecarribee Shire Council* (2011) 180 LGERA 343

concerning prohibited forms of proposed development of land and whether they are permissible with consent. It raises the question of the “purpose” of a building as opposed to the nature of the physical structure. .... 167

**New Queensland floodplain guidelines – Mark Baker-Jones**

The Queensland Premier and Reconstruction Minister, Anna Bligh recently announced a floodplain mapping initiative undertaken by the Queensland Government, the purpose of which is to assist local governments in managing development on floodplains. It has done this through the publication by the Queensland Reconstruction Authority of guidelines and an online interactive map, which local governments can use in assessing applications for development in flood affected areas. Is this the start of a journey to improve floodplain management throughout Queensland, or has the state government missed the tide? ..... 170

**Managing invasive species – a global/local assessment – Hanna Jaireth**

This note assesses the ACT Government’s Draft Pest Animal Management Strategy 2011-2021 (as at July 2011) against the multilateral decisions and non-binding principles adopted under the Convention on Biological Diversity (CBD) in relation to invasive alien species. This exercise is motivated by a belief that assessing domestic (including state and local government) law and policy initiatives against international standards and principles, and vice versa, is a sound evaluative method. Such assessments can contribute to assessing how the efficiency and effectiveness of both international and domestic law and policy can be maximised towards a goal of harmonising best practice. In this instance, the Draft Pest Animal Management Strategy is found to compare well with the guiding principles established under the CBD. .... 173

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