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PLANNING LAW IN AUSTRALIA

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Judicial Systems WA

Commentary on the planning system in Western Australia and the State Administrative Tribunal has been updated, with reference to *H & H Developments (WA) No 2 Pty Ltd v Western Australian Planning Commission* [2024] WASAT 117. See [WA.2.3010].

What is required by procedural fairness is a fair hearing, such that, where a denial of procedural fairness is alleged, the focus is to enquire as to the decision-maker's processes, rather than its actual decision. See [WA.2.3020].

The commentary in relation to appeals to the Supreme Court of Western Australia from decisions of the SAT has been updated, with reference to cases *Hanssen Pty Ltd v Owners of Strata Plan 58161* [2024] WASCA 87, *Happy Cruising Pty Ltd v City of Gosnells* [2024] WASC 464 and *Shilkin v Chief Executive Officer of the Department of Transport* [2024] WASC 477. See [WA.2.3160].

The issue of whether to direct or recommend that the Tribunal be differently constituted on remittal was given detailed consideration by the Court of Appeal in *Forrest & Forrest Pty Ltd v Minister for Aboriginal Affairs* [2024] WASCA 96. See [WA.2.3160].

Costs orders have most commonly been made where a party has conducted itself unreasonably or inappropriately or in such a way as to unnecessarily prolong the hearing or the proceedings are brought vexatiously, for an improper purpose or in a manner that constitutes an abuse of process. See [WA.2.3180].

Planning Systems and Development Approvals WA

The Planning Systems and Development Approvals WA chapter has been reviewed in full and annotations have been updated throughout the chapter. Some of these updates include:

- Commentary on the key differentiating features of the WA planning system, with reference to *McComish v Shire of Peppermint Grove* [2024] WASC 502. See [WA.1.4000].
- The 2024 amendments to the Environmental Protection Act 1986 mean that decisions that are not restricted can largely proceed in parallel with the environmental assessment process. The WA Government refers to this as part of its Parallel Decision-Making Policy. See [WA.1.4050].

- The Planning and Development (Metropolitan Region Scheme) Act 2024 will bring amendments to modernise the MRS. See [WA.1.4120].
- In 2024 the EP Act (s 48AAA) was amended to allow the making of regulations setting out classes of local scheme (especially local scheme amendments) that do not require referral. See [WA.1.4130].
- In Paspaley Pearling Company Pty Ltd and Delegate of the Chief Executive Officer of the Department of Primary Industries and Regional Development [No 2] [2024] WASAT 108 a Tribunal Panel comprising Deputy President Jackson and Senior Member Willey considered an argument that the original decision under review is to be considered as never having existed. See [WA.1.4520].
- In City of Gosnells v Reid [2024] WASCA 155 Lundberg J accepted the proposition that the characterisation of ‘use’ of a proposed development is sufficiently fundamental to the assessment of a development to be viewed as a jurisdictional fact. See [WA.1.4570].

Environmental Law VIC

The Environmental Law VIC chapter has been reviewed in full. Several annotations have been updated throughout the chapter.

Judicial Systems ACT

The Judicial Systems ACT chapter has been reviewed in full. The commentary on tribunal procedures has been updated. See [ACT.2.540].

