



Planning & Environment News - 4 April 2018

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Mondaq Business Briefing

BBPUB

English

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In the media - National

55 sustainable investment options for a brave new world

Produced by the UN Global Compact, a new report is based on a survey and consultation with more than 17,000 business leaders across five continents. This addresses four of the 17 Sustainable Development Goals most likely to be missed - Goal 10: Reduced Inequalities, Goal 12: Responsible Consumption and Production, Goal 13: Climate Action and Goal 14: Life below Water (22 March 2018). [More...](#) [More...](#)

Cycling and walking are short-changed when it comes to transport funding in Australia

Research has collated data for all the states and territories and our three biggest cities, and found that cycling and walking receive a tiny fraction of overall transport infrastructure funding. To improve cycling and walking infrastructure in our cities, funding will have to increase significantly (19 March 2018). [More...](#)

Building industry backs RBA on zoning

The Reserve Bank, in a research paper released last week, said zoning regulations were restricting housing supply, which in turn pushes up prices. But Planning Institute of Australia said the central bank's research is misleading and yet another attempt to shore up the popular misconception that getting rid of controls on land-use will solve the housing affordability crisis (11 March 2018). [More...](#)

Legal concerns over plan to extend 'outdated' regional forestry agreements

The Federal Government is staring down the prospect of legal challenges to a series of forest agreements allowing logging in native forests, with one lawyer saying their proposed plans would "lock-in decades of future logging on the basis of vastly outdated science" (21 March 2018). [More...](#)

Property sector turns eye to social sustainability

It is accepted as a truism in energy efficiency circles that "you can't manage what you don't measure". And with social sustainability a rising trend in terms of industry focus, the push is now on to find ways to apply a similar metrics-based approach to people-focused initiatives (20 March 2018). [More...](#)

How cities can leverage smart data to boost building efficiency

A free toolkit has been published to help local governments, utilities and other building industry players replicate the success of some US cities in leveraging smart data to make buildings more efficient and pleasant for occupants (20 March 2018). [More...](#)

PCA: Stepping up action on social sustainability

With the nation's premier annual conference on sustainability in the built environment underway this week in Melbourne, the Property Council is turning the spotlight on social sustainability as the next significant area of concerted industry action (15 March 2018). [More...](#)

Liddell's future reinforces need for the National Energy Guarantee

AEMOAdvice by the Australian Energy Market Operator () released today vindicates the Turnbull Government's concern about the proposed closure of AGL's Liddell Power Station in 2022 and reinforces the need to ensure sufficient dispatchable power in the system. At 1800MW, the Liddell Power Station supplies more than 10 per cent of New South Wales' demand and provides energy to around one million homes (23 March 2018). More...

In the media - Victoria

Shovels in the ground for MREP an Australian first

Melbourne Renewable Energy Project partners and Pacific Hydro will today celebrate the official start of construction on a new 80 MW wind farm in Crowlands, near Ararat. The wind farm will provide electricity to 14 leading organisations which have combined their purchasing power to support the development of new renewable energy infrastructure in regional Australia (23 March 2018). More...

ARENA to provide \$25 million to jointly fund Victoria's first large-scale, grid-connected batteries

ARENAThe Australian Government through the Australian Renewable Energy Agency () has announced it will match the \$25 million by the Victorian Government to jointly fund Victoria's first two large-scale, grid-connected batteries as part of the Victorian energy storage initiative (22 March 2018). More...

Hydro electricity storage feasibility explored in Bendigo

The Victorian state government has announced that it is calling for expressions of interest to investigate the viability of using pumped hydro to store electricity in Bendigo's empty mineshafts (21 March 2018). More... More...

Three's company for hot water

A new housing development in Melbourne's south east will incorporate a range of unprecedented water saving features as part of a collaboration between South East Water and residential land developer Villawood Properties. It's on track to become what has been described as Australia's most sustainable urban residential development that will push the boundaries in eco-friendly living (21 March 2018). More...

In the media - New South Wales

Half of Sydney's offices are aiming for a greener skyline - and it's paying off

Sydney's big end of town is emerging as a global leader in emissions reductions, with half the city's offices set to reach their agreed upon goal years before the target date, and they're saving millions in the process (25 March 2018). More...

EPA fines Doyalson concrete plant for air pollution

EPAThe NSW Environment Protection Authority () has fined Hanson Construction Materials Pty Ltd \$8,000 for an alleged repeat air pollution offence, after concrete dust was not properly managed and twice blew onto a neighbouring property (21 March 2018). More...

EPA fines Wyong waste facility \$15,000 for outdoor waste storage

EPAThe NSW Environment Protection Authority () has fined Alcon Disposals Pty \$15,000 for allegedly storing solid waste in an outdoor area, contrary to the conditions of its environment protection licence (20 March 2018). More...

\$47 million to support recycling in NSW

The NSW Government will release a one-off package of up to \$47 million to support local government and industry to respond to China's National Sword policy, Environment Minister Gabrielle Upton announced today (19 March 2018). More...

NSW Government secures historic Fernhill Estate for open space

The NSW Government has entered into a contract to purchase the central precinct of the historic Fernhill Estate at Mulgoa to enhance quality green open space for the people of Western Sydney to enjoy for future generations (14 March 2018). More...

NSW Government delivers more affordable homes

More affordable housing stock is being delivered to inner-Sydney, following the release of more than \$23 million to a key affordable housing supplier, thanks to a NSW Government policy (14 March 2018). More...

NSW returns more than 150 million drink containers

More than 150 million drink containers have been refunded through Return and Earn and more than 500 collection points are now open across NSW, helping to keep our environment container-free (14 March 2018). More...

Scared of drinking recycled sewage water? It's possible you already are

The prospect of drinking recycled sewage water may be confronting to many, but what most don't realise is that Australia's biggest city, Sydney, already allows "indirect potable reuse" of its water (13 March 2018). More...

Campbells Cove upgrade receives green light

The historic Campbells Cove promenade along Sydney Harbour will undergo a major \$15 million upgrade following approval from the NSW Government. Minister for Finance, Services and Property Victor Dominello said the waterfront changes will protect the heritage fabric of the precinct for future generations and improve public open space for visitors (12 March 2018). More...

NRC: Commenced audits of emergency response capability and implementation of major reforms

The Minister for Primary Industries requested the Commission to conduct these audits in response to the Commission's 2017-2018 proposed risk-based audit plan for Local Land Services (12 March 2018). More...

In the media - Queensland

Disgust as proposal at abandoned mine canned

Farmers who live near one of Queensland's biggest abandoned mines believe they have just lost their last chance for a toxic environmental legacy to be reversed (24 March 2018). More...

Vision progresses for a new Waterfront Precinct for Brisbane

The Palaszczuk Government has given a green light to Dexus to progress to the next stage with their proposal to transform Brisbane's Eagle Street Pier into a premium business and leisure destination (23 March 2018). More...

Individual fined \$45,000 for illegal waste activities

A Mount Morgan land owner has been convicted and fined \$45,000 on charges relating to the illegal storage and handling of regulated waste on his property. John Kevin Campion pleaded guilty to the charges in the Rockhampton Magistrates Court on 12 March 2018 (15 March 2018). More...

Gold Coast Council Approves \$550m Regeneration of Old Hospital Site

The site of the former Gold Coast Hospital in Southport will be transformed into a \$550 million master planned residential hub, with council giving their tick of approval for the first stage of "Queen Street Village" (17 March 2018). More...

'Out of balance': Adani fined \$12k for pollution, protesters to pay \$80k for port action

Protesters who shut down part of Adani's north Queensland coal port have questioned why they were collectively fined almost \$80,000 - more than six times what the mining company faces for dumping coal-polluted water (16 March 2018). More...

In Practice and Courts

Commonwealth

Productivity Commission Inquiry into the Murray-Darling Basin Plan

The Australian Government has announced a Productivity Commission inquiry into the effectiveness and implementation of the Murray-Darling Basin Plan and water resource plans. An issues paper outlining the inquiry's scope, procedures and key issues is being exhibited with submissions due by 19 April 2018.

Coastal Swamp Oak Forest of NSW and South East Queensland on the list of threatened ecological communities

The Assistant Minister has approved the inclusion of Coastal Swamp Oak Forest of New South Wales and South East Queensland in the Endangered category on the list of threatened ecological communities (21 March 2018). More...

Australian marine parks update

The Government has allocated \$56 million to implement these plans, including funding for community engagement and science and an appropriate adjustment package which government will consult with industry on. Under these plans, Australia will have world-class management of all marine parks in our oceans, starting from 1 July 2018 (20 March 2018). More... More...

NGER: 2016-17 Safeguard facilities information is now available

The Clean Energy Regulator today released the 2016-17 safeguard facility reported emissions data. In 2016-17, 203 safeguard facilities had a total of 131.3 million tonnes carbon dioxide equivalent (CO₂-e) covered emissions (14 March 2018). More... More...

CER: Seventh Emissions Reduction Fund auction

The Clean Energy Regulator will hold a seventh Emissions Reduction Fund auction on Wednesday 6 and Thursday 7 June 2018. This auction announcement comes after the release of the agricultural systems soil carbon method, providing opportunity for new sectoral engagement in the Emissions Reduction Fund. For additional information on the timeframes for participation in the seventh auction, see participating in an auction (07 March 2018).

Solar Communities Program round 2 announced

Guidelines for round 2 of the Solar Communities Program are now available. Round 2 of the Program will be open to applications from 13 March 2018 to 31 May 2018 (07 March 2018). More...

'Think Big' Regional Australia-the Regional Growth Fund is Now Open

The Australian Government's highly anticipated \$272 million Regional Growth Fund is officially open for applications from across regional Australia. All interested parties are encouraged to apply by 27 April 2018. For more information on the program, including the guidelines and application process, please visit grants.gov.au (01 March 2018). More...

Emissions Reduction Fund Safeguard Mechanism consultation paper released

The Government is currently consulting on ways to improve the Safeguard Mechanism to make it fairer and simpler. Submissions are due 30 March 2018. More...

Department of Environment and Energy: Current Consultations

Consultation on the operation of the Emissions Reduction Fund Safeguard Mechanism - Open until 30 March 2018.

Review of the Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013 - Open until 13 April 2018.

Review of the Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest-1.1) Methodology Determination Variation 2016 - Open until 13 April 2018.

Spray Drift Management

DRTThis proposed spray drift management approach from the Australian Pesticides and Veterinary Medicine Authority deals with buffer zones, label instructions and drift-reducing technologies (). More...

New South Wales

Land and Environment Court: Pilot Duty Lawyer Scheme

A duty lawyer scheme will be trialled in the Land and Environment Court for a 6-month period commencing 6 April 2018. The pilot scheme is aimed at assisting self-represented litigants in Classes 4 and 5 of the Court's jurisdiction. If it proves successful it may be broadened to other Classes or types of proceedings in the Court. More...

NSW Land Use and Transport Strategies released

The NSW Government this week released two strategic plans for Sydney and a long-term infrastructure plan for the entire state. The Greater Sydney Region Plan, proposes reshaping Greater Sydney as a metropolis of three cities - the Western Parkland City, Central River City and Eastern Harbour City - over the next 40 years.

The region plan prepared by the Greater Sydney Commission, was released along with Transport for NSW's Future Transport 2056 Strategy (the Government's 40-year vision for the NSW transport system) and the State Infrastructure Strategy (prepared by Infrastructure NSW). District Plans for the five districts in the Greater Sydney Region were also released.

NSW Freehold available for western graziers

Graziers in the Western Division of NSW can now apply to convert their leases to freehold, Minister for Lands and Forestry Paul Toole said today. The new arrangements bring the Western Division in line with other parts of NSW. The new provisions take effect from Monday 19 March. Information on Western Division lease conversions can be found [here](#).

National call for new technology ideas to support action on NSW water reforms

The NSW Government is inviting industry, researchers and academics to apply for a share of \$500,000 in funding for new technology solutions to support best practice management and monitoring of water in NSW. The new Water Pilot Technology Program, a key part of the NSW Government's Water Reform Action Plan. The grant applications will close on 23 April 2018. More information and how to apply visit [website here](#) (23 March 2018).

NSW water reform action plan

The Department of Industry-Water has announced the next stage of its drive to deliver best practice water management in NSW with the launch of consultation papers that seek community and stakeholder input on four core areas of the NSW Water Reform Action Plan. The community consultation period closes on 15 April 2018. For further information about where the consultations are being held, and to have your say, go to industry.nsw.gov.au/water-reform/consultation (14 March 2018). More...

Draft Regional Pest Animal Management Plans

NSW Local Land Services is seeking feedback on 11 draft regional strategic pest animal management plans by 20 April. The plans will guide resource allocation and investment across the state and provide a consistent basis for regional planning and delivery. Download the plans. Feedback is being recorded via a short online survey.

Announcements, Draft Policies and Plans released 2017

Queensland

'Extraordinary' edition of the Queensland Government Gazette of 15 March 2018

State Development and Public Works Organisation Act 1971 - Gazettal of notice by the Minister for State Development, Manufacturing, Infrastructure and Planning to extend the time when the prescribed project declaration for the Gold Coast International Marine Precinct ends by one year until 1 April 2019.

Cases

Victoria

St Vincent's Healthcare Limited v Yarra CC [2018] VCAT 392

Clause 66(1)(b) Victorian Civil and Administrative Tribunal Act 1998 - opinion on question of law - what matters are relevant to consider when separate permissions are required under the planning scheme - what is the role of the Tribunal when making decisions about conditions under review in an application for review under section 80 Planning and Environment Act 1987 where a permit has been granted.

AMES Australia v Whitehorse CC [2018] VCAT 387

Section 57 Planning and Environment Act 1987 - what constitutes an objection - whether notice of decision to grant a permit should have been given. The permit issued by the responsible authority on 6 February 2018 is not valid because it was issued contrary to section 64(3) of the Planning and Environment Act 1987.

New South Wales

Pomeroy v Hawkesbury City Council [2018] NSWLEC 1146

DEVELOPMENT APPLICATION: boarding house; strata subdivision of site to create two lots and common property, existing heritage listed dwelling; provision of parking; whether there is sufficient parking spaces for potential future commercial use of existing dwelling; whether an accessible parking space should be provided; amenity.

Fordham v Environment Protection Authority [2018] NSWLEC 28

CIVIL ENFORCEMENT - investigation by regulator into transportation and application of waste to riverbank - persons notified of statutory requirement to attend place and answer questions - non-compliance with notices - whether applicants protected against self-incrimination with respect to special executive liability criminal proceedings - whether privilege against self-incrimination constitutes lawful excuse to refuse to answer questions - whether Court determination would constitute impermissible advisory opinion - whether applicants in breach of statute by failing to nominate place and time to answer questions - whether applicants in breach of statute by failing to attend and answer questions - whether Court should make orders to remedy alleged breaches.

Parker Logan Property Pty Ltd v City of Ryde Council [2018] NSWLEC 1134

APPEAL - development application for a boarding house pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 - site has two street frontages - compatibility with the character of the local area on each frontage - amenity impacts.

Uniting Church in Australia Property Trust (NSW) v Parramatta City Council [2018] NSWLEC 1129

DEVELOPMENT APPLICATION: concept development application for a mixed use development; demolition of existing buildings; social benefit; whether the design excellence clause in Parramatta Local Environment Plan 2011 applies to a concept proposal; weight to a planning proposal to amend Parramatta Local Environment Plan 2011; duration of overshadowing of the protected area in Parramatta Square; impact of the proposal on the heritage significance of a local heritage item.

Geoffrey John Lomman v Windbelt Pty Limited [2018] NSWLEC 29

JUDICIAL REVIEW - where development consent only permissible for temporary purpose pursuant to cl 2.8 of LEP - whether Council reached requisite state of satisfaction that use would not adversely affect adjoining land or amenity of neighbourhood - whether Council had sufficient evidence to reach state of satisfaction - whether state of satisfaction a jurisdictional fact - onus of proof in judicial review proceedings - summons dismissed.

Queensland

Quintenon Pty Ltd v Brisbane City Council [2018] QPEC 013

PLANNING AND ENVIRONMENT - COSTS - Application for costs by successful appellant - application for costs of appeal from the date a Calderbank offer lapsed to the date reasons for judgment delivered - whether the Council unreasonably failed to accept the offer - where Council's experts expressed concerns about aspects of the proposal the subject of the offer - whether the Council unreasonably failed to detail its requirements in relation to its residual concerns - whether other bases for costs of the appeal - whether appellant should have its costs of the costs application in any event.

Wason v Gympie Regional Council (No 2) [2018] QPEC 012

ENVIRONMENT AND PLANNING - COSTS - Where the applicant brought a successful planning appeal against the respondent - Where the applicant subsequently brought an application for costs - Whether the court ought exercise its discretion to award costs.

Springsure Creek Coal Pty Ltd v Arcturus Downs Limited [2018] QLC 5

PROCEDURE - STATE AND TERRITORY COURTS: JURISDICTION, POWERS AND GENERALLY - MOTIONS, INTERLOCUTORY APPLICATIONS AND OTHER PRE-TRIAL MATTERS - OTHER MATTERS - whether the Land Court of Queensland has the power to make a compensation determination prior to a judgment being handed down in an application for mining lease - where final submissions have not been heard in the mining lease application - where expert evidence has not been filed in the compensation application - whether in the circumstances the Land Court should make a compensation determination in a hypothetical case.

Central Highlands Regional Council v Geju Pty Ltd [2018] QCA 038

LOCAL GOVERNMENT - LEGAL RELATIONSHIPS AND PROCEEDINGS - LIABILITY FOR TORTS - NEGLIGENCE - PARTICULAR CASES - CARELESS OR NEGLIGENT STATEMENTS - where the appellant council issued a limited planning and development certificate to the new owner of a lot which incorrectly noted the lot as zoned industrial - where the lot was zoned rural - where a previous owner had successfully applied for a material change of use over the lot from rural to industrial that would lapse within four years of being granted - where the respondent purchaser relied on a statement in the limited planning and development certificate that the lot was zoned industrial when purchasing the lot - where the lot was worth considerably less than the purchase price as a result of its real zoning - where the limited planning and development certificate was not issued to the respondent - where the respondent argued that it was a member of an identified class of persons who the appellant knew or ought to have known would receive the information - whether the appellant owed the respondent a duty of care.

Adrian's Metal Management Pty Ltd v Gold Coast City Council [2018] QPEC 011

(17/2429) RS Jones DCJ 1 March 2018 (delivered ex tempore)

Scrap metal business and associated operations carried out on the subject land is creating a noise nuisance to the extent that it constitutes an unlawful act under the Environmental Protection Act 1999.

Beerwah Land Pty Ltd v Sunshine Coast Regional Council [2018] QPEC 010

REFUSAL OF DEVELOPMENT APPLICATION - where respondents refused appellants application under the respondent's Superseded Planning Scheme for a Development Permit to reconfigure a lot in to 16 separate lots - where development included a new road - where subject land located proximate to an existing poultry farm operation.

ALLEGED CONFLICT WITH PLANNING SCHEME - where numerous conflicts with the Planning Scheme alleged - inappropriate and unsafe access - inappropriate design - adverse amenity impacts including emissions from nearby rural activity - "reverse amenity" and failure to maintain appropriate "urban design".

NEED - whether in the event there was conflict with the planning scheme - the extent and nature of the conflict - whether sufficient grounds to warrant approval despite the conflict.

Legislation

New South Wales

Proclamations commencing Acts

Crown Land Management Act 2016 No 58 (2018-86) - published LW 16 March 2018.

Regulations and other miscellaneous instruments

Crown Land Management Regulation 2018 (2018-88) - published LW 16 March 2018.

Environmental Planning and Assessment Further Amendment Regulation 2018 (2018-89) - published LW 16 March 2018.

Environmental Planning and Assessment Amendment (Snowy 2.0 and Transmission Project) Order 2018 (2018-82) - published LW 9 March 2018.

Environmental Planning Instruments

Armidale Dumaresq Local Environmental Plan 2012 (Amendment No 10) (2018-92) - published LW 16 March 2018.

Hurstville Local Environmental Plan 2012 (Amendment No 12) (2018-93) - published LW 16 March 2018.

Lake Macquarie Local Environmental Plan 2014 (Amendment No 26) (2018-94) - published LW 16 March 2018.

The Hills Local Environmental Plan 2012 (Amendment No 41) (2018-95) - published LW 16 March 2018.

Clarence Valley Local Environmental Plan 2011 (Amendment No 38) (2018-99) - published LW 23 March 2018.

Lismore Local Environmental Plan 2012 (Amendment No 28) (2018-100) - published LW 23 March 2018.

Nambucca Local Environmental Plan 2010 (Amendment No 21) (2018-101) - published LW 23 March 2018.

Newcastle Local Environmental Plan 2012 (Amendment No 26) (2018-102) - published LW 23 March 2018.

Orange Local Environmental Plan 2011 (Amendment No 22) (2018-103) - published LW 23 March 2018.

Port Macquarie-Hastings Local Environmental Plan 2011 (Amendment No 44) (2018-104) - published LW 23 March 2018.

Standard Instrument (Local Environmental Plans) Amendment (Coastal Management) Order 2018 (2018-105) - published LW 23 March 2018.

State Environmental Planning Policy (Coastal Management) 2018 (2018-106) - published LW 23 March 2018.

State Environmental Planning Policy (State and Regional Development) Amendment (State Significant Development) 2018 (2018-98) - published LW 21 March 2018.

Sydney Local Environmental Plan (Green Square Town Centre-Stage 2) 2013 (Amendment No 3) (2018-107) - published LW 23 March 2018.

The Hills Local Environmental Plan 2012 (Amendment No 51) (2018-108) - published LW 23 March 2018.

Willoughby Local Environmental Plan 2012 (Amendment No 12) (2018-109) - published LW 23 March 2018.

Consultation or Exposure Bills

Water Management Amendment Bill 2018

Consultation draft: 15/03/2018 - An Act to amend the Water Management Act 2000 with respect to water management plans, conditions of approvals and licences, metering, the provision of information and measures to protect environmental water; and for other purposes.

Bills introduced Government - 16 March 2018

Smoke-free Environment Amendment Bill 2018

Bills assented to

Liquor and Gaming Legislation Amendment Act 2018 No 7 - Assented to 21 March 2018.

Casino Control Amendment Act 2018 No 8 - Assented to 21 March 2018.

Gaming Machines Amendment (Leasing and Assessment) Act 2018 No 9 - Assented to 21 March 2018.

For the full text of Bills, and details on the passage of Bills, see Bills.

Click Here for related articles

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