



What's News?

Property, Planning & Environment

4 August 2010

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Latest news

National

Banks offer deals for solar loans

18 July 2010

National Australia Bank (NAB) has announced plans to discount personal loan interest rates for customers seeking to purchase solar hot water systems. ANZ Banking also offers discounts to customers who take out loans to purchase solar hot water systems, while Commonwealth Bank of Australia is reviewing its policy [More...](#)

Land lease reforms branded a failure

24 July 2010

The leasing system hailed as the key reform to allow economic enterprise on Aboriginal land has been savaged as an epic failure, according to the Northern Territory's remote-services watchdog [More...](#)

Regional cities to deliver sustainable growth

18 July 2010

The Property Council of Australia and the Residential Development Council believe the Building Better Regional Cities funding announced paves the way for improved infrastructure needed to support a 'Sustainable Australia'. The funding, announced by Prime Minister Julia Gillard, will invest \$200 million to help build up to 15,000 more affordable homes in regional cities over three years and will relieve pressure on our major capital cities [More...](#)

Consultation for Basin Water infrastructure charge rules extended

14 July 2010

A further consultation period will give stakeholders the opportunity to comment on the new water infrastructure charge rules proposed for the Murray Darling Basin until 10 September 2010. The water infrastructure charge rules aim to promote greater transparency in setting fees and charges levied on the operation and maintenance of irrigation infrastructure [More...](#)

New Sustainable Population Announces Advisory Panels

15 July 2010

The Minister for Sustainable Population Tony Burke has announced the establishment of three panels to advise him on sustainable population issues, the Demographic change and Liveability Panel, a Productivity and Prosperity Panel and a Sustainable Development Panel. The Sustainable Population Strategy panels will provide advice to the Minister for Sustainable Population on the issues, views, tradeoffs, opportunities and challenges associated with population growth and population ageing [More...](#)

National Solar Schools program funding

14 July 2010

Primary and secondary schools across Australia will have access to funding for solar panels and rainwater tanks from 15 July 2010, under new funding for the National Solar Schools Program. The Government has announced \$51 million in funding would be available to schools in 2010-11. The \$420 million program will help schools across Australia to become more energy efficient [More...](#)

PM faces climate compo claims

14 July 2010

Julia Gillard could face multi-billion-dollar demands from big business for compensation and other measures. This would be to mitigate the costs of complying with the government's climate change policies [More...](#)

Office tenants in expansion mode

15 July 2010

Australian office tenants are again in growth mode, with a quarter of businesses indicating they are planning to relocate within three years, according to research by Colliers International. Top attributes include location to public transport, excellent indoor air quality and thermal comfort, and cutting edge IT and communications capabilities ranked as the top three attributes in building selection, with an increase in the public reporting of environmental performance [More...](#)

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Major cities expensive for retailers

14 July 2010

Sydney, Melbourne and Brisbane all feature in the ranks of the Top 10 cities with the priciest retail rents, according to a new CB Richard Ellis Global Market View report [More...](#)

Victoria

New \$500m railway line 'unsafe'

Large sections of the newly upgraded Melbourne-Albury rail line have been declared unsafe, forcing trains to slow down and prompting claims that the \$500 million project has been bungled [More...](#)

Projects announced for bushfire affected communities

23 July 2010

Communities affected by the devastating 2009 Victorian bushfires will share in \$1.4 million in further funds from the Victorian Bushfire Appeal Fund for 13 projects identified as rebuilding priorities by local community recovery committees according to the Chair of the Advisory Panel Pat McNamara.

Peulich, Peulich and Bauer set to face ombudsman's inquiry

23 July 2010

Allegations that the office of Inga Peulich MP deliberately influenced the business of the Kingston City Council will be referred to the Victorian Ombudsman through a vote of the Victorian Parliament next week [More...](#)

Study into world-first safer level crossing technology

23 July 2010

Victoria is leading the world in new technology that will revolutionise safety at level crossings, Roads and Ports Minister Tim Pallas announced, through the Victorian Transport Plan the Government had allocated \$100 million for level crossing upgrades and \$440 million for a grade separation program [More...](#)

Time is running out for Melbourne's affordability

22 July 2010

The VC67 Amendment to the Planning and Environment Act 1987 is again in limbo as the Victorian Parliament prepares to resume sitting on 27 July 2010. Aspects of clause 12 deals with accommodating new dwellings in existing areas in a sensible manner, not rampant development across the city. The revised proposed amendments will commence passage through the Victorian Parliament when sitting resumes on 27 July 2010 [More...](#)

Wyong Council wants motorists compensated for F3 traffic jams

21 July 2010

The RTA would be forced to pay compensation to motorists stuck in traffic jams for hours under a radical proposal approved by Wyong Council last week [More...](#)

Brumby doubles rebates for hybrid cars

15 July 2010

Rebates offered for registrations for hybrid and electric vehicles would double under a new plan to drive down emissions and drive new investment in cleaner, greener industries, the Victorian Premier John Brumby has announced [More...](#)

Planning decision-makers sought for Doncaster Hill

22 July 2010

A new planning partnership between the Victorian Government and local government is a step closer with Planning Minister Justin Madden calling for expressions of interest to join Victoria's first Development Assessment Committee. The Development Assessment Committee (DAC) for the Doncaster Hill Principal Activity Centre would be the planning decision maker for major developments.

New report shows renewable energy potential

21 July 2010

Victoria's significant renewable energy potential has again been confirmed with the release today of a new report Renewable Resources Victoria: the renewable energy potential of Victoria, which assessed the raw renewable potential from a range of sources, including wave, geothermal, wind and solar. Mr Batchelor said this was an appropriate location because the south-west had the potential to be a renewable energy hub.

Melbourne property spruiker disqualified

21 July 2010

A Melbourne property promoter has been disqualified from managing corporations for five years following his involvement in 26 failed companies [More...](#)

Victoria shines in solar action on climate change

21 July 2010

Victoria is set to become Australia's solar state through a plan to increase Victoria's electricity supply from large scale-solar power to five per cent by 2020, Premier John Brumby announced today [More...](#)

\$75 Million health education centre at Australian Catholic University fast-tracked

21 July 2010

Planning Minister Justin Madden today called-in from VCAT a proposal for a \$75 million National Centre for Health and Wellbeing at the Australian Catholic University's Fitzroy campus [More...](#)

Multiplex's Wembley settlement in court

20 July 2010

A hearing to approve a conditional settlement for a \$300 million class action relating to Brookfield Multiplex's construction of Wembley Stadium in the UK will be held in Melbourne on Wednesday. Without admission of liability, the Multiplex Group has settled claims made against it by persons represented by lawyers, Maurice Blackburn, the legal firm said in a statement [More...](#)

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Compo for rail link residents

20 July 2010

The Victorian Government has confirmed the owners of several houses at Footscray that will be affected by the regional rail link will be eligible for compensation [More...](#)

Residents fight for rail plan compo

18 July 2010

A new action group will take up the compensation fight for Footscray residents and business people affected by the Victorian government's planned regional rail link. The government bungled the announcement by failing to tell some residents of the plan before it was revealed to business leaders and the media [More...](#)

No increase planned to Victoria's marine parks

22 July 2010

The Brumby Labor Government has not accepted a proposal to increase the number of marine parks in Victoria according to the Minister for Environment and Climate Change, Gavin Jennings [More...](#)

Water restrictions to be eased thanks to pipeline

16 July 2010

Water restrictions in Hamilton, Cavendish, Dunkeld and Tarrington in south-west Victoria will be removed following the completion of the Hamilton-Grampians Pipeline. From Sunday 1 August, restrictions for these towns will be eased from Stage 2 water restrictions back to Permanent Water Saving Rules ending more than four years of tough water restrictions [More...](#)

Premier turns sod on \$2.9 million Stawell airport works

16 July 2010

The Premier John Brumby today turned the sod turn on stage two of a major \$2.9 million project to redevelop Stawell Airport to expand its aviation opportunities [More...](#)

Brumby reveals climate-change policy

15 July 2010

The Victorian government has beaten the federal government to the punch on climate-change policy, announcing it will double an existing state energy efficiency target. The target requires energy retailers to make savings through encouraging uptake of energy-efficient light bulbs and appliances [More...](#)

Westlink: Melbourne needs west gate alternative

12 July 2010

The release of alignment options for Melbourne's WestLink road project is a welcome step that allows for informed debate about how Melbourne can accommodate growth says Infrastructure Partnerships Australia.

Central Victoria gold exploration tender awarded

13 July 2010

A company could soon begin exploring for gold after Victoria's first mineral's tender since 2006 was awarded for a large area in central Victoria, with Energy and Resources Minister Peter Batchelor announced that Minotaur Operations Pty Ltd had been awarded the Rochester Tender for gold exploration [More...](#)

Residents left hanging as rail link bungle hits home

[More...](#)

Noxious weed lands Bunnings in court

13 July 2010

Hardware retailer Bunnings has been fined \$15,000 without conviction after it was caught selling a noxious weed in its Victorian stores. The grass is a state prohibited weed, the highest category for noxious weeds under Victoria's Catchment and Land Protection Act [More...](#)

New South Wales

Sydney council proposes new water strategy

21 July 2010

More than 3.2 gigalitres of rain and other water resources could be captured and reused for irrigation and other non-potable uses under a proposed new City of Sydney water strategy. The City is seeking tenders to develop a Decentralised Water Master Plan aimed at producing more 10 per cent of the City's water supply from local sources [More...](#)

Jobs Boost for Wolli Creek with Retail Facility Approval

16 July 2010

A new \$7.3 million retail facility has been approved by the NSW Government to provide a supermarket and speciality shops for residents in the Wolli Creek area. The proponent Mecone, on behalf of NAHAS Constructions, has been given a time-limited approval for the site for a period of up to 15 years. Jobs Boost for Wolli Creek with Retail Facility Approval

Queensland

Vegetation management laws 'confusing'

23 July 2010

Property Rights Australia chairman Ron Bahnisch has lashed out at what he calls a "confusing" process which landholders must go through to clear land under new vegetation management laws. Last week a contractor was fined a record \$20,000 in Rockhampton Magistrates Court for clearing 465 hectares of native vegetation on a property near Dingo [More...](#)

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\$134 billion infrastructure plan

22 July 2010

The South East Queensland Infrastructure Plan and Program 2010-2031 (SEQIPP) will soon be replaced with a state-wide Queensland Infrastructure Plan (QIP). Minister for Infrastructure and Planning Stirling Hinchliffe said this year's updated SEQIPP, released 20 July would be incorporated into QIP to anticipate infrastructure needs in fast growing regions throughout the state [More...](#)

State government signs first koala nature refuges

22 July 2010

Under voluntary agreements the Koala Nature Refuges Program, the State Government was recruiting properties of key strategic value for koalas. The program was established in recognition that the community can play an important role in preserving the koala population in SEQ alongside Government and councils [More...](#)

SEQ Water Strategy blueprint for the future

15 July 2010

The South East Queensland Water Strategy and consultation report has been released by the Natural Resources Minister Stephen Robertson. The 50 year blueprint ensures a sustainable, efficient and secure water supply for our region's future, with the construction of the \$7 billion SEQ Water Grid and all key storages being currently full or near capacity [www.qwc.qld.gov.au](#). [More...](#)

Albert Street station to service all CBD

14 July 2010

The planned new inner-city underground rail station station will be the first new inner-city railway station in over a century, is part of the state government's \$8.2 billion Cross River Rail Project. In the longer-term, the Albert Street station could link to an east-west rail link, the Premier said, but added this was a post-2016 option [More...](#)

Articles

National

Can a mortgagee sell a mortgagor's home

Author: Butt, Peter

Source: Australian Law Journal, Vol 84 No 6, June 2010: pp359

Silence is dangerous (purchaser notice to complete received)

Author: Butt, Peter

Source: Australian Law Journal, Vol 84 No 6, June 2010: pp360

A leases smorgasbord

Author: Butt, Peter

Source: Australian Law Journal, Vol 84 No 6, June 2010: pp360

Estoppel in the Face of Consumer Protection in Land Transactions – Judicial Reasoning or Judicial Intuition?

Author: Christensen, Sharon et al

Source: Australian Property Law Journal, 2010, Vol 18, No 2, pp113

National legislation regulating land sale transactions in relation to seller disclosure of information

Independent inquiry: Green Loans program: review of procurement processes and contractual arrangements / Patricia Faulkner

Source: Canberra: Dept. of the Environment, Water, Heritage and the Arts], 2010; pp54

Dept of the Environment, Water, Heritage and the Arts; Government contracts; Government purchasing; Risk management; Public service management; Program management; Cost overruns; Financial Management and Accountability Act 1997; Housing; Energy efficiency; Subsidies; Committees and inquiries [More...](#)

Review of the Green Loans program: final report / Department of the Environment, Water, Heritage and the Arts

Source: Canberra: Dept. of the Environment, Water, Heritage and the Arts, 2010; 33pp.

Dept of the Environment, Water, Heritage and the Arts;

Government contracts;

Government purchasing; Risk management; Public service management; Program

management; Housing; Energy efficiency; Subsidies; Cost overruns; Financial Management and Accountability Act 1997; Evaluation [More...](#)

Climate change and the Australian Reform Agenda / Martin Parkinson

Source: Canberra: Dept. of Climate Change and Energy Efficiency, 2010; 13pp.

Environment policy; Emissions trading; Climate change (Anthropogenic);

Climate change; Economists; Economic impact; Federal state relations; Attitudes; Leslie Melville.

Water issues in jurisdictional planning for mining: an overview of current practice / Sinclair Knight Mertz

Source: Canberra: National Water Commission, 2010; 67pp
Mining industry; Water resources; Water rights; Natural resource management;

National Water Initiative; Interstate comparisons; Statistics.

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Good practices for managing Australia's public and community housing assets / authored by Russell Kenley [et al.].

Source: Melbourne: Australian Housing and Urban Research Institute, 2010.; 138pp.

Public housing; Community housing; Property management; Building maintenance; State housing commissions; Best practice; Interstate comparisons; Australia overseas comparisons; Statistics [More...](#)

Energy efficient homes package

Author: Senate Environment, Communications and the Arts References Committee, 19 July 2010

This report makes 11 recommendations, the first of which is that a Royal Commission be held into the Rudd Labor Government's Home Insulation Program to investigate its development and implementation [More...](#)

Practice notes/directions

National

Reminder: Mandatory Disclosure to start 1 November

The Commercial Building Disclosure Scheme will commence on 1 November 2010. Under the terms of the legislation, owners and lessors of commercial office space with a net lettable area of 2,000m² or more will be required to disclose energy efficiency information to prospective buyers and tenants when the space is sold, leased or subleased (23 July 2010) [More...](#)

Expressions of Interest: Australian Carbon Trust

The Australian Carbon Trust is seeking Expressions of Interest from businesses and other organisations to enter into Strategic Relationships and co-invest to deliver energy efficiency improvements in existing non-residential buildings across Australia. To request further information on the Expression of Interest process, please email eoi@carbontrustaustalia.com.au. The deadline for submitting Expressions of Interest is 5pm on 6 August 2010. Please click here for the EOI Information Document. (388Kb) [More...](#)

New South Wales

NSW Home Builders Bonus

From 1 July 2010, transfer duty exemptions and concessions are available for certain new home purchases, off the plan purchases, and vacant land purchases on which a home will be built within a specified time. There is also a specific exemption for eligible seniors purchasing a new home as their principal place of residence [More...](#)

Streamlined planning for critical Telco facilities

16 July 2010

Under the new measures, all new telecommunications facilities in NSW must be consistent with a set of principles covering issues such as site selection, design, construction and operation. Under this amendment, new telecommunications towers required to deliver broadband or mobile phone access in certain rural or industrial zones would be allowed as complying development subject to amenity and safety issues like height limits and separation from residential areas.

Queensland

Queensland Planning Provisions: Consultation closes 12 August 2010

The QPP are the standard planning scheme provisions made under the Sustainable Planning Act 2009 that provide a consistent format and structure for local government planning schemes across Queensland. Have your say on the draft Queensland Planning Provisions (QPP) version 2.0 [More...](#)

Yeerongpilly TOD: Consultation closes on 15 August 2010

The new Yeerongpilly Transit Oriented Development (TOD) will provide a range of housing options along with retail, office and recreation facilities. Visit the Yeerongpilly TOD community consultation on the department's website to have your say on plans for the redevelopment.

South East Queensland Infrastructure Plan and Program 2010–2031

The plan identifies \$134 billion in estimated infrastructure investment, which is expected to support about 930 000 jobs through to 2031. There are seven new projects in the plan, at an estimated investment of about \$1.4 billion.

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Legislation

Commonwealth

Hazardous Waste (Regulation of Exports and Imports) Amendment Regulations 2010 (No. 1) Number: SLI 2010 No. 229 - These Regulations amend the Hazardous Waste (Regulation of Exports and Imports) Regulations 1996 to omit paragraph 5C(g) (22/07/2010) [More...](#)

Energy Efficiency Opportunities Regulations 2006 - Formats for documents lodged under the Regulations (11/06/2010) Legislative Instrument - F2010L02103 - This Notice revokes the Energy Efficiency Opportunities Regulations 2006 - Formats for documents lodged under the Regulations (14/07/2006) and approves particular formats for the submission of information to the Secretary of the Department of Resources, Energy and Tourism by participants in the Energy Efficiency Opportunities program (20/07/2010) [More...](#)

Building Energy Efficiency Disclosure Act 2010 - Proclamation Legislative Instrument - F2010L01958 - This Proclamation provides for the implementation day under section 22 of the Building Energy Efficiency Disclosure Act 2010 (13/07/2010) [More...](#)

Building Energy Efficiency Disclosure Regulations 2010 Number: SLI 2010 No. 203 - These Regulations provide administrative provisions to support the commercial building energy efficiency disclosure scheme (13/07/2010) [More...](#)

Cases

Victoria

Merri Merri Developments Pty Ltd v Darebin CC (includes Summary) (Red Dot) [2010] VCAT 1045

Nature of case. Refusal by Responsible Authority to grant a permit for 99 dwellings - Amended proposal for 93 dwellings in a four level apartment building and associated townhouses with a basement car park supported by the Responsible Authority subject to conditions.

Location of passage of interest. Paragraphs [27] - [52] The appropriateness of imposing permit conditions requiring a percentage of the housing to be "social housing" and the appropriateness of requiring a green travel plan.

Reasons why decision is of interest or significance. analysis - exposition of how to assess an issue or matters to consider. The legitimacy and appropriateness of including permit conditions requiring a percentage of the dwellings to be "social housing" and a condition requiring a green travel plan that is highly elaborate and involves a degree of detailed social control not commonly imposed in Victoria [More...](#)

Director of Consumer Affairs Victoria on behalf of Hart v Stage 2 Illawong Services Pty Ltd (Civil Claims) [2010] VCAT 1119

Contract for management and personal services - retirement village - body corporate - agreement that charges to remain within statutory cap - whether body corporate fees for insurance exempted - statutory interpretation - whether "rates taxes and charges" includes body corporate fees - ejusdem generis rule - whether body corporate fees levied under an Act or subordinate instrument - whether insurance is a service - Retirement Villages Act 1986 ss.3, 38, Retirement Villages (Contractual Arrangements) Regulations 2006, Retirement Villages Regulations 1998; Subdivision (Body Corporate) Regulations 1989 and 2001; Owners Corporations Act 2006 [More...](#)

3143 Victoria St Doncaster Pty Ltd v Retirement Services Australia (RSA) Pty Ltd [2010] VSC 317

Contracts - Entitlement to serve a notice to terminate - Principles of construction - Evidence of surrounding circumstances - Waiver - Validity of notice [More...](#)

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Alievski v Cross Country Realty Victoria Pty Ltd [2010] VSC 316

Contracts – agency and agents – commission payable – agreement for commission calculated as ‘any dollar amount over a specified sale price – whether enforceable – undue influence – unconscionability – agent successfully sued for commission – appeal from orders of a magistrate – whether error of law – appeal from summary dismissal of appeal by associate justice – re-hearing de novo – ‘in all the circumstances, unconscionable’ as compared with ‘unconscionable within the meaning of the unwritten law’ – Trade Practices Act 1975 (Cth), ss 51AA-AC, Fair Trading Act 1999 (Vic), s 8 - Magistrates’ Court Act 1989 (Vic), s 109 [More...](#)

Rush v Sukkel (Owners Corporation) [2010] VCAT 1137

Subdivision – sale of lot – implied easement – Subdivision Act 1988 s.12(2) – whether easement to be implied – front lot facing main road with side boundary on laneway – other two lots fronting laneway – owner of rear lots claiming easement to run water through the front lot and then down the laneway to the rear lots - no implied easement over front lot on favour of rear lots – refused [More...](#)

Queensland

Krajniw v Brisbane City Council & Anor [2010] QPEC 055

Planning and environment – Originating application for declaration and enforcement orders – lawfulness of stage 2 of bikeway – whether development approval valid – whether further approvals required – where permit for the taking of protected plants under section 89 of the Nature Conservation Act found to be required by council for the clearing of least concern vegetation and/or vegetation of a higher category – whether an offence under Nature Conservation Wildlife Management Regulation relating to offence where a person tampers with an animal breeding place will be committed [More...](#)

Trust Company Ltd v Grays Professional Services Group Pty Ltd & Anor [2010] QDC 278

Landlord and tenant – Assignment of Reversion – effect on lease – effect of guarantee of tenant’s obligations – whether notice of assignment given. Landlord and tenant – Assignment of Lease – tenant and guarantor not discharged. Landlord and tenant – Covenants – breach – mitigation of loss – whether triable issue raised. Practice – Summary Judgment – whether triable issue raised – whether cross-examination of deponent appropriate [More...](#)

The Chief Executive, Office of Fair Trading, Department of Employment, Economic Development & Innovation v Martin [2010] QCAT 322

Property Agents and Motor Dealers Act 2000 ss 154, 469; Property Agents and Motor Dealers (Real Estate Agency Practice Code Of Conduct) Regulation 2001 s7(2); disciplinary proceedings; real estate agent practising unlicensed; whether licensee not a suitable person to hold licence; whether licensee has in carrying on a business or performing an activity, the incompetent or acted in an unprofessional way; fine and disqualification [More...](#)

Fitzpatrick v Young [2010] QCAT 327

Retail shop lease dispute - claim that tenant entered assignment of balance of term relying on a misrepresentation by estate agent.

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