



# What's News?

Property, Planning & Environment

9 June 2010

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## Latest news

### National

#### **Power generation brown to green - at what cost**

23 May 2010

In terms of emissions per unit of energy produced, the brown coal-fired Hazelwood power station is the most polluting power station in the country, pumping out 3 per cent of Australia's greenhouse gas all by itself. The cost of shutting this down raises the questions on how much will it cost and what precedent will it set. [More...](#)

### Victoria

#### **Moves mulled before the rent goes up**

29 May 2010

Despite the high costs of relocating, tenants are in growth mode and will start in earnest to look for new premises to take advantage of current rents before they start to rise, according to new research by Colliers International. [More...](#)

#### **Terms of reference set for Woollen Mills Committee**

28 May 2010

Planning Minister Justin Madden today appointed an independent Advisory Committee to consider design and development controls at the former Woollen Mills site at Nelson Place, Williamstown. The Advisory Committee will consider matters such as appropriate heights, setbacks, urban design, traffic management, heritage asset protection, acoustics, open space requirements and the need for development contributions [More...](#)

#### **Securing the long term future of Torquay-Jan Juc**

28 May 2010

Mr Madden said he had approved Amendment C37 to the Surf Coast Planning Scheme to reflect the strategic directions contained in the Torquay and Jan Juc Structure Plan. The amendment addresses a range of issues in Torquay and Jan Juc, including car parking, retailing, neighbourhood character, vegetation conservation and urban design [More...](#)

#### **New Melbourne city planning advisory committee**

28 May 2010

Planning Minister Justin Madden today announced details of a new joint State Government and City of Melbourne committee that will assess developments larger than 25,000 square metres in Melbourne. Mr Madden said the Central City Standing Advisory Committee would give the City of Melbourne greater involvement in major planning decisions in the CBD. [More...](#)

#### **Melbourne's street art gets heritage review**

27 May 2010

Melbourne's world renowned street art will be assessed for its unique heritage value, Planning Minister Justin Madden announced this week. Mr Madden said the National Trust had campaigned on the need to recognise street art. The public now values a wider range of cultural heritage including neon signs such as the Skipping Girl and CSIRAC, the world's oldest existing programmable electronic computer. [More...](#)

#### **Supreme court decision on Bastion Point boat ramp**

27 May 2010

Planning Minister Justin Madden today welcomed the Supreme Court's decision on the assessment of the Bastion Point Ocean Access Boat Ramp under the Environment Effects Act 1978. The Supreme Court today upheld the validity of the Minister's assessment and the judgement confirms that safety and social considerations were relevant considerations under the Environment Effects Act 1978. [More...](#)

#### **Huge affordable housing project underway**

26 May 2010

Housing Minister Richard Wynne today turned the first sod to mark the start of works at the \$140 million Ashwood Chadstone Gateway development, which heralds the largest-ever social housing project partnership between the Brumby Labor Government and the not for profit sector. [More...](#)

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### Madden family wind farm link

26 May 2010

Planning Minister Justin Madden has been caught up in yet another controversy, this time involving a conflict of interest claim over a wind farm. Opponents of the Moorabool Wind Energy Facility have launched a legal bid to delay a panel hearing into the project, requesting the Victorian Civil and Administrative Tribunal to rule that the hearing not proceed until the claims of conflict of interest are investigated. [More...](#)

### Costs court moves into new premises

26 May 2010

Deputy Premier and Attorney-General Rob Hulls has launched the Victorian Costs Court's new premises in the central legal precinct. The Costs Court is a one-stop, centralised court that resolves costs disputes arising from litigation and disputes between legal practitioners and their clients across all courts and tribunals, ensuring a consistent and harmonised approach. [More...](#)

### Water deal struck for Nurrabiel mine

Grampians Wimmera Mallee Water (GMMW) has agreed to supply water to Iluka's new Echo Mine at Nurrabiel, south of Horsham. [More...](#)

### Carnegie to probe potential wave energy sites

26 May 2010

The Victorian Government has granted a licence to Carnegie Wave Energy to investigate potential wave power sites off Portland, Warrnambool and Phillip Island. [More...](#)

### Council urged to snub sand dunes house

26 May 2010

The Glenelg council is being urged to refuse permission for the construction of a controversial house in Narrawong to be finished. A Portland-based developer was halfway through building the house on sand dunes at Narrawong, when the Victorian Government closed a loophole in the planning scheme. [More...](#)

### Funding certainty for services in growth areas

25 May 2010

Public transport and other vital infrastructure in growth areas today benefited from a dedicated \$2.4 billion funding stream, with legislation to introduce the Growth Areas Infrastructure Contribution (GAIC) passing through the Legislative Council. Planning Minister Justin Madden said it was essential to have a plan for funding community infrastructure before considering any extension to the Urban Growth Boundary (UGB). [More...](#)

### Vic given more time in water fight with SA

25 May 2010

The Victorian Government has been given more time to file its defence to a South Australian Government challenge over its water trading cap. The SA Government claims a 4 per cent cap restricts trade so is unconstitutional. [More...](#)

### Controversial growth areas tax passes

26 May 2010

The Government plans to impose a levy on new residential land on Melbourne's outskirts, to pay for infrastructure in the city's growth areas, under the Growth Areas Infrastructure Contribution (GAIC) legislation. This secured bipartisan support, after it was amended to reflect the Government's memorandum of understanding with the Property Council and the Urban Development Institute. [More...](#)

### Victorian government provides certainty for wind farm industry

25 May 2010

Mr Brumby and Mr Jennings outlined the Government's support of wind farms and said that the Government's policy provided for new wind farm projects to be approved and operated within clear guidelines developed in consultation with the industry. They also said the Victorian Government supports sensible and sustainable development and has strong planning policies in place to balance the community views with the need for building cleaner energy sources. [More...](#)

### Rise in legionnaire's sparks air con warning

25 May 2010

A jump in legionnaire's disease cases in Victoria has prompted health authorities to issue a warning to businesses about their cooling tower maintenance. An accredited legionella auditor who runs a company that performs risk assessments of buildings says while the maintenance guidelines are good, the monthly compliance by building owners may be slipping. [More...](#)

### Funding call for forest protection

25 May 2010

The Victorian National Parks Association is calling for significant funding to increase protection of forested areas in central Victoria found to be of a high conservation value. The association's two-year study has identified 20 state forest sites that it says should be protected under the National Parks Act. [More...](#)

### Solar companies vie for funding

25 May 2010

Three solar development companies linked to Victoria's Wimmera-Mallee are now also in the running for State Government funding. AGL Energy, TRUenergy and Infigen Suntech are all pitching photovoltaic proposals with possible plants around Mildura and Horsham. [More...](#)

### Councils challenge clearway changes

24 May 2010

VicRoads' public consultation strategy is being questioned as councils launch a Supreme Court challenge to the state government's clearways strategy. [More...](#)

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### Land donation allows park extension

24 May 2010

Greater Bendigo National Park will be extended after the Victorian Government received a land donation from property developer Villawood Properties, which has transferred 109 hectares of forest land to the Government. [More...](#)

### No heritage overlay for former Northcote bowl site

21 May 2010

Planning Minister Justin Madden today accepted the recommendations of an independent advisory committee and declined two Heritage Overlay requests for the former Northcote Bowl site. Mr Madden said the committee's recommendations would enable Darebin City Council to decide on a current planning permit application for the site. [More...](#)

### Victoria going for gold at shanghai as premier announces world heritage bid for Victorian goldfields

29 May 2010

The Premier John Brumby today announced that the Victorian Government would seek World Heritage listing for the Victorian Goldfields. The Australian Government is responsible for assessing Australian applications to the World Heritage List, before putting proposals to UNESCO for a decision. The Victorian Government will submit the Victorian Goldfields to the Australian Government for its consideration. [More...](#)

### New caravan park guidelines give everyone a fairer go

19 May 2010

More Victorian families will have fairer access to some of the State's best holiday spots at Crown land caravan parks under new guidelines that will prevent people effectively claiming "ownership" of prime sites year after year. Long-term permit sites will be required to have a balanced mix of accommodation types, such as cabins, caravans and campsites. [More...](#)

### Framework to weed out invasive plants and animals

19 May 2010

Protecting parks, waterways, biodiversity and agriculture from the threat of invasive plants and animals through early intervention and eradication is the key element of a strategy released by the Brumby Labor Government [More...](#)

### \$500 million smart meter blow-out

18 May 2010

There has been a \$500 million dollar blowout in the cost of Victoria's "smart" electricity meters. The program was originally expected to cost Victorians \$1.1 billion dollars over 20 years. The Government is allowing electricity providers to install the new "smart" electricity metres in 2.4 million homes over the next four years. [More...](#)

## New South Wales

### Land Transfer Tax

26 May 2010

On May 12, the NSW Government announced that it would shift to a new Land Transfer Charge, an 'ad valorem' tax regime that is calculated on the value of a property, the changes now effective from 1 July 2010. NSW had previously charged a flat fee of \$190 for the registration of property with the Land Titles Office. [More...](#)

### Joint Regional Planning Panels – Implementation update

26 May 2010

A nine month review of the implementation of the Joint Regional Planning Panels (JRPPs) has been undertaken by the NSW Government. The Minister for Planning has outlined a number of initiatives to further streamline the determination of projects by the JRPPs. More information on the proposed delegations will be forthcoming. Minister for Planning's media release, please click here. Nine month review report, please click [here](#). [More...](#)

### Removal of barriers to development

26 May 2010

The NSW Government has extended the lapsing period for development consents in a move that will benefit all levels of developers across the State. The Development Consents Bill, passed through Parliament on 18 May, allows up to five years for works to commence on developments approved under Part 4 of the Environmental Planning and Assessment Act, compared to the previous lapsing period of two years. [More...](#) [More...](#)

## Queensland

### Infrastructure Plan to unveil blueprint of growth management

27 May 2010

Premier Anna Bligh says the plan will outline a state-wide blueprint of road, public transport, health and education infrastructure needs. The new QIP will integrate the existing Queensland Roads Investment Program (RIP) and SEQ Infrastructure Plan and Program (SEQIPP) as well as other state infrastructure planning documents, with the first QIP would be delivered in 2011. [More...](#)

### New bodies to steer Growth Management agenda

26 May 2010

Two new bodies will act as the foundation stones of the Government's Growth Management response according to Premier Anna Bligh. A new agency, Growth Management Queensland (GMQ) and a new Infrastructure Charges Taskforce have been established ahead of the Government's official response to the Growth Management Summit. [More...](#)

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### **Qld green wedges to avoid urban sprawl**

26 May 2010

The new initiative to support the intent of the recently released draft Greenspace Strategy, will involve a new Government plan for areas of farmland and forests between South East Queensland's urban areas would be transformed into major new parks, nature reserves and outdoor recreation areas. [More...](#)

### **Queensland's satellite cities plan 'flawed'**

27 May 2010

Conservationists have criticised the Queensland Government's plan to fast-track construction of three new satellite cities in the state's south-east. [More...](#)

### **New incentive for first home owners to move to regions**

27 May 2010

Premier Anna Bligh has announced a new \$11,000 Regional First Home Owners Grant for new build homes, a \$4000 boost to the State Government's existing \$7000 First Home Owners Grant to encourage people to move to the regions and to stay in the regions. [More...](#)

### **Sustainable building options a step closer**

20 May 2010

Minister for Infrastructure and Planning Stirling Hinchliffe announces changes increase pool inspection powers, create a State-wide swimming pool register and allow for the implementation of a new swimming pool safety inspector licensing system. New legislation amendments also include changes to the 'ban the banners' provisions which are designed to increase homeowners' options with a range of green option such as solar panels and affordability features like opting to build a smaller home. [More...](#)

### **Marine polluters face tough penalties under new laws**

20 May 2010

Transport Minister Rachel Nolan said shipping industry polluters who endanger the state's pristine coastline could be fined up to \$10 million under the new penalties. Shipping industry polluters will no longer be able to frustrate efforts by refusing to provide documents on the basis that the documents may be incriminating. [More...](#)

### **Feasibility study commences for Cedar Grove Connector**

18 May 2010

A feasibility study commenced in March 2010 to determine a pipeline route and examine environmental or community impacts as well as related mitigation strategies and is scheduled to end in July 2010. LinkWater Projects is responsible for developing the project on behalf of the Queensland Government. [More...](#)

### **Transit oriented development assessment extended**

18 May 2010

Minister for Infrastructure and Planning Stirling Hinchliffe will continue to assess a proposed transit oriented development (TOD) at Railway Terrace, Milton. The Minister used call-in powers under the Sustainable Planning Act the proposed 31-storey development on grounds of state interest and to allow the project to be reassessed ahead of lengthy court action that could jeopardise the potential development. [More...](#)

## Articles

### National

#### **Measures of environmentally sustainable development and their effect on property asset value: An Australian perspective**

**Author:** Warren, Clive

**Source:** Property Management, 2010, Volume 28, Number 2, pp68-79(12)

#### **The evolution of the "Public Purpose Rule" in compulsory acquisition**

**Author:** Mangioni, Vince

**Source:** Property Management, 2010, Volume 28, Number 2, pp93-103(11)

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### Practice notes/directions

#### Victoria

##### **Australia's anti-dumping and countervailing system report**

The Productivity Commission's final report on Australia's anti-dumping and countervailing system has been tabled for comment. The Rudd Government is giving interested parties until 31 August 2010 to review the report and make submissions on the final recommendations. [More...](#)

##### **Spark Ignition Consultation RIS**

28 May 2010

A Consultation RIS on options for reducing emissions from non-road engines has been released for public consultation until 20 July 2010. Feedback will be used to inform a Decision RIS, which will recommend to the Environment Protection and Heritage Council (EPHC) a preferred option to address emissions from non-road spark ignition engines and equipment. [More...](#)

##### **New national standards for private bushfire shelters**

28 May 2010

The new national performance standard for private bushfire shelters is now in effect in Victoria. Mr Madden said the Victorian Government had supported the recommendations from the 2009 Victorian Bushfires Royal Commission Interim Report 2 Priorities for Building in Bushfire Prone Areas that a national standard for private bushfire shelters be adopted by May 31 2010. [More...](#)

##### **Mornington safe harbour EES released for comment**

26 May 2010

Victorians are encouraged to have their say on the proposed Mornington Safe Harbour Development with the project's Environment Effects Statement (EES) released for public comment. The EES would remain on display until Monday 5 July 2010 along with the proposed planning scheme amendment and permit application for the project near Mornington. All documentation is available at the Mornington Peninsula Shire website [www.mornpen.vic.gov.au](http://www.mornpen.vic.gov.au) Amendment C107 and related documents can be viewed. [More...](#) [More...](#)

##### **New caravan park guidelines**

19 May 2010

New guidelines will also prevent the sale of caravans on-site at parks because it has the potential of giving buyers the impression the camping space is part of the purchases. The new also guidelines require 10% of casual sites be available to new permit holders during each peak season; 10% of seasonal permits be available to new permit holders during each defined season; 10% of 12-month permits be available to new permit holders each year; and 10% of cabins be available to new permit holders during each peak season. [More...](#)

##### **\$1000 Rebate available**

27 May 2010

CitySwitch Victoria has announced a rebate to assist signatories to obtain a NABERS energy tenancy rating, and offer a new workbook to improve office energy efficiency. The rebate is for organisations within the City of Melbourne or City of Port Phillip that sign up to CitySwitch before June 30th 2010, though funding is limited and may not last until this time. The CitySwitch website, also contains an overview of the CitySwitch program. [More...](#)

##### **Approved Plans**

**Casey C119:** Implements a range of changes to the planning scheme to provide for the urban development of parts of Cranbourne East and Clyde North. [More...](#)

**Brimbank C86:** Rezones the Lowther Hall Keilor Campus in Overnewton Road, Keilor to a Special Use Zone and inserts Schedule 5 to the Special Use Zone to allow the use and development of the land at the Keilor Campus site in accordance with an approved Master Plan. [More...](#)

**Greater Bendigo C125:** Amends various clauses to change the name of the East Bendigo Food Manufacturing Precinct, 155 Victoria Road, Wellsford, to the Wellsford Estate. [More...](#)

**Greater Bendigo C140:** Amends the Schedule to Clause 61.01 to change the person or responsible authority for issuing planning certificates from the Council to the Minister for Planning. [More...](#)

**Indigo C21:** Implements the findings of the revised Kiewa-Tangambalanga Structure Plan (April 2006) and the Kiewa-Tangambalanga - Supplementary Report (Revised February 2007), and allows the expansion of the Tangambalanga township. [More...](#)

**Knox C83:** Ministerial Implementation of the Wildfire Management Overlay under Delegation. [More...](#)

**Maroondah C68:** Rezones 222 Oban Road, Ringwood North to a Residential 1 Zone and introduces a Development Plan Overlay. [More...](#)

**Mitchell C66:** Introduce a Design and Development Overlay on land in a Rural Living Zone in north-east Kilmore, to govern future equine industry and hobby development in a designated area, where investment in horse stabling can coexist with dwellings without adverse amenity impact. [More...](#)

**Moorabool C55:** Amends the Schedule to Clause 61.01 to change the person or responsible authority for issuing planning certificates from the Council to the Minister for Planning. [More...](#)

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**Stonnington C137:** Facilitates and guides the redevelopment of the Horace Petty Estate, South Yarra, as a social housing precinct.

[More...](#)

**West Wimmera C20:** Ministerial Implementation of the Wildfire Management Overlay under Delegation. [More...](#)

**Yarra C135:** Facilitates and guides the redevelopment of two social housing precincts, the Atherton Gardens Estate, Fitzroy, and the Richmond Public Housing Estate, Richmond. [More...](#)

### Panel Reports

**Banyule C60:** Implement the Heidelberg Precinct Structure Plan.

[More...](#)

**Frankston C46:** Olivers Hill and Sweetwater Creek Erosion Management Overlay and Lot Restructure Plan. [More...](#)

**Golden Plains C40 Part 2:** Introduce the Rural Land Use Strategy.

[More...](#)

**Melton C83:** Introduce the Melton North Precinct Structure Plan.

[More...](#)

**Northcote Bowl Advisory Committee:** Assessment of the former Northcote Bowl site at 166-174 Victoria Road, Northcote. [More...](#)

**Wellington C53 Part 1:** Public Acquisition Overlay 4 for the Gippsland Regional Sports Complex, Sale; Public Acquisition Overlay 2 for widening of the Charles Street road reserve, Port Albert. [More...](#)

**Wellington C60:** Rezone 15 and 16 Cahill Street, Briagalong to part Public Park and Recreation Zone and part Township Zone.

[More...](#)

### Announcements

The Growth Areas Infrastructure Contribution (GAIC) was passed on 25 May. Amendment VC70: Changes the Victoria Planning Provisions and planning schemes by amending Clause 52.38 – 2009 Bushfire Recovery to extend the planning scheme exemptions until 31 March 2011, extend the time by which uses must be brought into compliance with the planning scheme until 31 March 2012, and further clarify the exemptions that were introduced by the clause.

### Currently Inviting Submissions

**Creating Better Places Program (Round 6)** - Applications close on 10 June 2010.

**Ports and Environs Advisory Committee Discussion Paper** - Comments by Friday, 25 June 2010.

### Smart meters alert

17 May 2010

Consumer Affairs Victoria has received enquiries about smart meters, currently being installed across Victoria. All homes and small to medium-sized businesses are to have their old meter replaced with a smart meter by the end of 2013. [More...](#)

### Queensland

#### Building and Other Legislation Amendment Bill 2010 changes

24 May 2010

Advises that Parliament passed the Building and Other Legislation Amendment Bill 2010 (the Bill) on 20 May 2010, and now contains elements of stage two of the swimming pool safety improvement strategy and amendments to the 'ban the banners' provisions.

[More...](#)

#### DIP website: Environmental impact assessment

Comprehensive information about significant project declaration and the environmental impact statement (EIS) process under the State Development and Public Works Organisation Act 1971 is now available from the department's website. A step-by-step guide, which provides a simple overview of the entire process from beginning to end is also available online. [More...](#)

#### Interim development controls for Koala conservation

18 May 2010

The government has announced the finalisation of koala state planning instruments to protect koala habitat and manage conflicts with urban development. This delivers on a key priority action for the South East Queensland Regional Plan 2009-2031. The South East Queensland Koala State Planning Regulatory Provisions (February 2010) the Nature Conservation (Koala) Conservation Plan 2006 remain in effect until the new koala state planning instruments come into effect on May 31 2011. [More...](#) [More...](#) [More...](#)

### New South Wales

#### Deadline for comments on key transport and planning reviews closes May 2010

28 May 2010

The date for the last submissions and comments closed on 28 May 2010, and the process of analysing the feedback and producing an integrated Metropolitan Plan combining land-use and transport planning that will guide Sydney's development to 2036 commences. [More...](#)

#### Public Feedback Called for on M2 Upgrade and South West Rail Link Projects

20 May 2010

Plans for two major transport infrastructure projects in Sydney have been placed on exhibition for public comment. The two proposals are currently under assessment by the Department of Planning and both have been placed on public exhibition until Monday 21 June. [More...](#)

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### Legislation

#### National

##### **Australian Radiation Protection and Nuclear Safety Amendment Regulations 2010 (No. 1)**

25 May 2010

These Regulations amend the Australian Radiation Protection and Nuclear Safety Regulations 1999 to adjust the licence application fees charged by the CEO of the Australian Radiation Protection and Nuclear Safety by 14 per cent. [More...](#)

#### Victoria

##### **Bills**

Water Amendment (Victorian Environmental Water Holder) Bill

##### **Acts**

Planning and Environment Act No 45 of 1987 Reprint 9  
Heritage Act No 93 of 1995 Reprint 5

##### **Statutory Rules**

Agricultural and Veterinary Chemicals (Control of Use) (Infringement Notices) Amendment Regulations 2010  
Forests (Recreation) Regulations 2010  
Building Amendment (Private Bushfire Shelter Construction) Interim Regulations 2010

#### Queensland

##### **Acts**

Transport and Other Legislation Amendment Act (No. 2) 2010  
South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010 (23/05/10)

##### **Regulations**

Revenue Legislation Amendment Regulation (No. 2) 2010  
Nature Conservation Legislation Amendment Regulation (No. 1) 2010  
State Penalties Enforcement Amendment Regulation (No. 5) 2010  
Local Government (Areas) Amendment Regulation (No. 1) 2010  
Sustainable Planning Amendment Regulation (No. 2) 2010  
Transport Legislation (Fees) Amendment Regulation (No. 1) 2010  
Land Court Amendment Regulation (No. 1) 2010  
Public Trustee Amendment Regulation (No. 4) 2010

##### **Bills**

Geothermal Energy Bill 2010

### Cases

#### Victoria

##### ***Rose on behalf of the Kurnai Clans v State of Victoria* [2010] FCA 460**

Native title - overlapping claims - issue of group composition - whether application as currently defined includes all persons who hold native title - Native Title Act 1993 (Cth) - effect of s 67(1) - dismissed. [More...](#)

##### ***Balanced Securities Limited v Bianco & Ors (No 2)* [2010] VSC 201**

Trespass - Damages - Mesne profits - Availability of a claim for Hungerfords damages in a claim for trespass Trespass to land - Remedies - Market rent of premises - Loss of commercial opportunity - Election of remedy - Measure of damages for trespass - Compensatory damages. [More...](#)

##### ***Sulomar & Ors v Owners Corporation 1 Plan No. PS511693Q (Civil Claims)* [2010] VCAT 600**

Owners Corporation - Functions of Owners Corporation - "services" related to the common property or its enjoyment - equipment or services which are for the benefit of all or some of the land affected by the owners corporation - ss. 4 and 12 of the Owners Corporations Act 2006. [More...](#)

##### ***Leah Paul Pty Ltd v Maroondah CC* [2010] VCAT 613**

Application under section 80 of the Planning and Environment Act 1987 to review conditions in a permit. Subdivision. Residential 1 Zone. Significant Landscape Overlay. Removal of tree. Condition of tree considered. Potential for replacement planning. Achievement of policy outcomes. [More...](#)

##### ***Rushton & Anor v Yarra CC* [2010] VCAT 612**

Section 82 of the Planning & Environment Act 1987; Yarra Planning Scheme; Non Appearance by Applicants for Review; Section 51(5) of the Victorian Civil and Administrative Tribunal Act 1998. [More...](#)

##### ***De Group Pty Ltd v Wyndham CC* [2010] VCAT 607**

Sections 77 and 149 of the Planning & Environment Act 1987; Wyndham Planning Scheme; Development Plan; DPO2; Point Cook; Hotel and Gaming Machines; Point Cook; Activity Centre; Strategic Planning; Off-Site Impacts.. [More...](#)

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### ***Minas & Anor v Boroondara CC [2010] VCAT 592***

Application under Section 79 of the Planning and Environment Act 1987 against failure to grant a permit. Boroondara Planning Scheme. Residential 1 Zone. Three storey apartment building with basement car park. Built form impact. Amenity. Landscaping. Parking provision. [More...](#)

### ***Australian Leisure and Hospitality Group Ltd v Manningham CC [2010] VCAT 590***

Application under section 77 of the Planning and Environment Act 1987 to review a decision to refuse a permit - allows buildings and works for the redevelopment and extension of an existing hotel. [More...](#)

### ***Dextrous Homes v Moonee Valley CC [2010] VCAT 581***

Section 79 of the Planning and Environment Act 1987; Moonee Valley Planning Scheme; Residential 1 Zone; Three Dwellings; Repeat Appeal; Neighbourhood Character; Impacts on Amenity; Traffic; Parking. [More...](#)

### ***Snowy Hydro Limited v Commissioner of State Revenue [2010] VSC 221***

Duties Act 2000 (Vic) - Acquisition of an interest in a "landholder" - "Landholder" entitled to land and other property though a "linked entity" - "Linked entity" held land and other property under the terms of a joint venture - Construction of joint venture agreement - Joint venture parties owned the joint venture assets as tenants in common in proportion to their interests in the joint venture - Construction of s 74 of the Duties Act 2000 (Vic) - Application of s 74 of the Duties Act to the joint venture - Joint venture not a "linked entity" - Joint venture not to be treated as if terminated - "Landholder" holds only the percentage interest in land and other property held by the "linked entity" under the joint venture - Unencumbered value of that interest - "Landholder" not "land rich" - No liability for duty - Ss 71(2), 74, 78, 79 of the Duties Act 2000 (Vic). [More...](#)

### ***Abraham v Johns (No 2) [2010] VSC 212***

Sale of land — Deposit paid by purchaser — Deposit held by vendor's agent as stakeholder — Mortgage over sold land — Prospect that balance of purchase price insufficient to discharge mortgage — Whether purchaser entitled to direct deposit moneys and balance of purchase price directly to mortgagee at settlement — Parties' rights over deposit — Sale of Land Act (Vic) s 24, 26, 27. [More...](#)

### ***Southlink Holdings Pty Ltd v Morerand Pty Ltd [2010] VSC 214***

Contract - joint venture - whether agreement made - implied terms - whether uncertain - whether restraint upon alienation - whether agreement abandoned - whether agreement discharged - damages. Damages - lost opportunity - sale of land. [More...](#)

### ***Friends of Mallecoota Inc v Minister of Planning & Minister for Environment and Climate Change [2010] VSC 222***

Planning - Municipal council requires Ministerial permission and planning permit for replacement of ocean access ramp - Environment Effects Act 1978 invoked as approvals required could have significant effect on the environment - Minister for Planning required Environmental Effects Statement to be completed - Submissions upon EES were predominantly opposed to construction of a new ramp - Panel appointed to conduct inquiry - Panel recommendations reject new ramp options - Minister did not accept the panel's principal recommendation and took a different view with respect to safety benefits and disbenefits - No merits review by Court - Minister's assessment only informs and assists the ultimate statutory decision makers - Whether the Minister's assessment was an assessment within the meaning of the Environment Effects Act 1978 - Whether the Minister took into account irrelevant considerations - Statutory definition of 'environment' a flexible concept - Environment includes social effects including water safety - Minister did not take irrelevant considerations into account - Whether the plaintiff entitled to a further hearing - No entitlement arising from the plaintiff's interests - Statutory scheme with respect to hearing - Consequences of plaintiff's interpretation of the statutory scheme - Procedural fairness in the circumstances of the case - If the validity of the assessment impugned, relief in the nature of certiorari potentially available - Coastal Management Act 1995, s 38 - Environment Effects Act 1978, ss 2, 3, 4, 5, 8, 9, 10 - Environment Protection Act 1970, ss 1B, 4, 39(1), 41(1), 48(1) - Environment Protection and Biodiversity Conservation Act 1999 (Cth), s 528 - Supreme Court (General Civil Procedure) Rules 2005, r 56 - Planning and Environment Act 1987. [More...](#)

### ***Mackie Group Pty Ltd v Reading Properties Pty Ltd (No 2) [2010] VSC 205***

Practice and procedure - costs - plaintiff successful - plaintiff's Calderbank offer - whether special cost order should be made against defendant - whether defendant's refusal of offer unreasonable - whether defendant in a position to assess offer - whether plaintiff entitled to interest for period of delay with respect to the trial date caused by its late amendment - whether plaintiff entitled to costs with respect to irrelevant issues raised in its pleadings - costs were incurred needlessly. [More...](#)

### ***Wade v Davie & Anor [2010] VSC 211***

Transfer of land - Caveat - Interest necessary to support caveat - Arrangement between father and daughter for occupation of property — Whether intention to confer proprietary interest - Intention to create legal relations - Whether facts give rise to express trust or constructive trust - Whether caveator has good arguable case or reasonable prospects of success - Balance of convenience. [More...](#)

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### ***J & G Knowles and Associates Pty Ltd v Crowncross Pty Ltd [2010] VSC 227***

Contract - Formation - Offer and acceptance - Exchange of letters - Contemplation of formal agreement - Whether parties intended to be immediately bound - Regard to surrounding circumstances - written contract of sale - sale of property - more than \$5,000,000.00. [More...](#)

### ***First Delta Group v Yarra CC (No 2) [2010] VCAT 649***

Proposed major mixed-use development; Business 2 zone. Issues of likely parking congestion and traffic congestion; timing and funding of the proposed widening of a roadway giving access to a main road; the likelihood that a major industry (CUB) would become non-compliant with SEPP-N1 due to the closeness and design of proposed housing. [More...](#)

### ***Jones v Yarra CC [2010] VCAT 650***

Section 77 of the Planning and Environment Act 1987; Yarra Planning Scheme; Mixed Use Zone; Heritage Overlay; Amended Plans for Proposed Extension to Existing Building on a Small Site to be Used as a Dwelling; Amenity Impact on Adjoining Properties. [More...](#)

### ***Robinson & Anor v Bayside CC (No 2) [2010] VCAT 635***

Sections 80 & 82 Planning and Environment Act 1987; Bayside Planning Scheme; Residential 1 Zone; Two-storey apartment style development; Previous Tribunal decision; Amenity impacts; Neighbourhood character; Car parking; Waste collection; Open space provision. [More...](#)

### ***Campaspe SC v Campaspe Farms Pty Ltd & Ors [2010] VCAT 631***

Nature of contravention - Allowing the placement of fill on land in an Urban floodway Zone without a permit having been granted in contravention of Clause 37-03.2 of the Campaspe Planning Scheme. [More...](#)

### ***Cadzow Enterprises Pty Ltd v Port Phillip CC [2010] VCAT 634***

Section 82 Planning and Environment Act 1987; Port Phillip Planning Scheme; Residential 1 Zone; Heritage Overlay; Special Building Overlay; Implications of climate change and potential sea level rise; Construction of a dwelling on a lot less than 500 square metres; Increased floor levels; Solar access to neighbouring north facing windows; Amenity impacts; Heritage. [More...](#)

### ***Hindle & Anor v Stonnington CC [2010] VCAT 656***

Sections 82 and 80 of the Planning and Environment Act 1987 for decision to grant a permit and conditions in a permit; existing major promotional sign on major arterial road; adjacent heritage overlay; site specific scheme amendment for sign; neighbourhood character. [More...](#)

### ***Sarto & Ors v Corangamite SC [2010] VCAT 626***

Application under section 82 of the Planning and Environment Act 1987; Corangamite Planning Scheme; Farming Zone; Proposal for extractive industry (quarrying of scoria) at base of Mount Elephant; Mount Elephant of geological and cultural significance; Policy support for ecotourism at Mount Elephant; Visual impact of quarry upon Mount Elephant unacceptable. [More...](#)

## Whats News? - Property, Planning & Environment

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