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ARTICLES

Transferable lessons for climate change adaptation planning? Managing bushfire and coastal climate hazards in Australia – *Anita Foerster, Andrew Macintosh and Jan McDonald*

Climate change is predicted to exacerbate and alter the frequency, severity and distribution of many natural hazards in Australia, including bushfire and coastal hazards. Land-use planning is widely recognised as a critical tool for reducing the vulnerability of settlements and infrastructure to such hazards. In Australia, legal and policy frameworks for land-use planning have been the subject of much scrutiny and reform effort in recent years to respond to potential climate change impacts. This article compares and contrasts the approach taken to these two different climate hazards, as well as the approaches taken by different State and Territory jurisdictions and local governments. The analysis focuses on: the range of spatial planning instruments available to address climate hazards; the types of instruments currently in use; and recent experiences of instrument design and implementation. Drawing on this analysis, a number of transferable lessons regarding the choice, design and implementation of spatial planning instruments are identified to inform the ongoing development of legal frameworks for climate change adaptation. 469

Adaptive reuse of heritage buildings – do current planning and heritage controls support the concept? – *Paul Leadbeter*

This article examines the concept of adaptive reuse of heritage places and notes the benefits and perceived disadvantages of applying such a concept to buildings identified as being of heritage significance. It notes that although there have been many successful examples of the application of the concept around Australia, there are limited references to the concept in the heritage and planning legislation and policy of the States and mainland Territories. The article maintains that the success is due in large part to the careful application of the adaptive reuse principles contained in the Australian ICOMOS Charter for Places of Cultural Significance 1999 (the Burra Charter) on a case-by-case basis by heritage advisors and heritage authorities. It queries whether this is the best way to approach issues of adaptive reuse and suggests that, ideally, heritage and planning legislation should contain more specific provisions requiring that adaptive reuse proposals be undertaken in accordance with the Burra Charter principles. 491

The role of export credit agencies in environmental management: International benchmarks in ECA financing – *Susan Shearing*

The current and projected involvement of public export credit agencies (ECAs) in financing large-scale resource-related developments raises questions as to the extent to which the potential environmental and social outcomes of supported activities are addressed by ECAs. Academic, civil society and media attention has focussed on the role of private commercial banks in financing large-scale infrastructure projects that frequently carry significant adverse environmental and social impacts. However, less attention has been paid to the role of ECAs in this area, notwithstanding the extensive involvement of such agencies in supporting projects with similar impacts. This article examines the

international environmental and social standards for sustainable finance that have been adopted by ECAs over the past two decades and considers the legal and policy frameworks for implementation of those environmental and social standards by two ECAs: Australia's Export Finance and Insurance Corporation; and Canada's Export Development Canada. The article raises a number of issues arising from the approach of these ECAs in implementing the standards and draws observations from the case studies as to the extent to which ECAs might operate as catalysts for sustainable development. 508

Environmental property rights in Australia: Constructing a new Tower of Babel
– Paul Martin, Amanda Kennedy, John Page and Jacqueline Williams

An argument for market-based approaches to environmental conservation is the expectation that a property rights approach can achieve environmental goals efficiently, provide new sources of funds, and allow industry to find cost-effective solutions to environmental harms. It is also argued that property rights-based approaches minimise the risk of the “tragedy of the commons” and ensure resources are put to the highest value use. Legal property interests are thus fundamental to an “environmental economy”. However, this article argues that the proliferation of environmental market instruments and incentive programs in Australia has the potential to create unexpected legal complexities, largely due to a failure to account for the interactions between property interests. 531

Native title – a right to burn and fire the land? Savanna burning and the Carbon Farming Initiative in northern Australia – *Michael O'Donnell*

The Indigenous practice of firing and burning the land was an integral part of Indigenous land management in Australia. The nascent restoration of this form of land management facilitates Indigenous peoples continuing occupation and use of their traditional country whilst providing new opportunities in the modern economy. This article analyses the Carbon Credits (Carbon Farming Initiative) Act 2011 (Cth) and the savanna burning methodology approved under that legislation and the relationship to native title in Australia. The methodology applies to tropical savannas in northern Australia in areas that receive more than 1,000 mm rainfall annually and is retrospective to 1 July 2010. The Carbon Farming Initiative provides exclusive possession native titleholders with a carbon right and status as a project proponent, which includes the legal right to carry out a project. This enables these native titleholders to acquire Australian Carbon Credit Units and therefore participate in the modern carbon market. 553

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