

LOCAL GOVERNMENT LAW JOURNAL

Volume 23, Number 2

2020

ARTICLES

Victoria's New General Environmental Duty: A Comparison with Its OHS Forefather – *Leigh Howard*

The management of health, safety and the environment in Victoria is set to become even more intertwined with the advent of the “general environmental duty” to commence on 1 July 2020. As readers may be aware, Victoria’s new environmental duty was inspired by, and closely mirrors, the risk-based duty imposed on an employer within the *Occupational Health and Safety Act 2004* (Vic). Accordingly, environmental lawyers now need to turn to their OHS colleagues to understand how the general environmental duty will operate in practice. This article attempts to address this need by outlining the similarities and differences between the two regimes. As will be seen, there are considerable similarities, but also a potential for the environmental duty to be interpreted in a different, and potentially more diverse, way.

67

Rolling Back the Legalese: A Plea for a Return to an Objective Based Clause 4.6 – *Willem van Wyk*

The New South Wales Land and Environment Court’s recent interpretations of the Standard Instrument cl 4.6 have resulted in a mechanism which no longer aligns with the original intent, as expressed in the objectives of cl 4.6 itself. The Court has ruled that the objectives of the Standard Instrument cl 4.6 have no substantive effect, thereby effectively condoning an assessment approach that prioritises process over outcome. This essay argues for the objectives of cl 4.6 to reassume a central position in the assessment of development standard variations. This would ensure the necessary “legal teeth” is given to consent authorities, while promoting outcome based planning.

79

LOCAL GOVERNMENT PLANNING & LAW GUIDE CASES

Australian Capital Territory – *Stephanie Booker* 84

South Australia – *Paul Leadbeter* 87

Victoria – *Lawrie Groom* 92

Western Australia – *Daniel Morey, Lea Hiltenkamp and Connor Fisher* 97

DIGEST OF CASES 103

