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ARTICLES

Policy Construction: From Flexibly Applying to Flexibly Interpreting – Willem van Wyk

The increasing reliance on policy for environmental governance in New South Wales gives rise to the need for refined policy interpretation. The basic principles of statutory interpretation are consistently applied and, according to the Hon Michael Kirby, form the most important task ordinarily applied by Australian lawyers. However, there seems less clarity on whether statutory interpretation can simply be carried across into policy interpretation. This article will argue that “text, context and purpose” should still apply to environmental policy documents, however that greater emphasis should be placed on the distinctive context. In particular, these soft law documents are often drafted by planners or other experts without the benefit of the Office of Parliamentary Counsel. If nothing else, principles of practical construction for delegated legislation and development consents should be explicitly and broadly applied to policy interpretation. Policy should be not only applied flexibly but interpreted flexibly. 105

Out of Time Appeals in Queensland – When the Court May (or May Not) Grant an Extension of Time – Megan Duane

The deadline for filing a Planning and Environment Court appeal in Queensland can be extended by the Court, but only where detailed and adequate reasons are given to explain the delay. 119

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