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ARTICLES

Uses of Land for Public Purposes: The Representation of the Land as Fundamental to Thinking About a Use’s Lawfulness – *Dr Chris Boge*

Urban and rural areas of the Australian landscape include many parcels of land, some small, some large, that have been dedicated, reserved, set apart, vested or placed under the care, management or control of land managers for public purposes. The natures of these purposes vary, as do the statutes which govern land managers’ powers and obligations to use them for those purposes. Intuitively, uses of land are generally found in some legal right or authority. But in evaluating whether a particular use, actual or proposed, of public purpose land is, or will be, lawful, it is essential to understand what it means for land to be a place for the particular purpose. This will generally require an understanding of a non-legal concept of a place for that purpose such as “for a public park”. This is because, to be lawful, any use must be “said of” the land in the sense that the land, when used, is a thing for the purpose or may be characterised as being for the purpose. This article suggests that, when land becomes a place to be used for a public purpose, a proper understanding of the land’s representation as that place can be acquired by also considering how and why property relationships and other authorities and limitations are, as “variables”, constantly abstracted from land as a “thing” to govern how we think about uses in relevant ways, including to evaluate their lawfulness.

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Indoor Air Quality: Is It Regulated Sufficiently? – *Peter Lochore*

The COVID-19 pandemic has brought greater public awareness of how indoor air can be unsafe. In truth, virus-laden particles are only one of many contaminants we breathe when we are inside. Despite Australians spending most of their time indoors, we have no health-based standards for indoor air quality (IAQ). While laws relating to building standards, health and safety and public health do tangentially influence IAQ, individually and cumulatively these laws are insufficient. What is needed today are bespoke, health-based, IAQ standards.

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Clause 5.10(10) Conservation Incentives: More than a Disingenuous Land Grab – *Willem van Wyk and Alin Almasan*

The provisions of cl 5.10(10) of the NSW Standard Instrument Local Environmental Plan provide for land-use permissibility to be placed aside in order to facilitate the continued upkeep of heritage-listed properties. The conservation incentives clause is an effective mechanism to protect heritage value however there remains scope for improvement. The clause is being undermined by local Councils who are reluctant to entertain what they perceive as a disingenuous land grab. The situation could be ameliorated through greater awareness of the intent and application of the provision as well as improving the perspicuity

of its drafting. Afterall, the clause seeks to facilitate conservation rather than development. There are also land-use economics to consider as permissibility may not be the only, or indeed the best, way to incentivise conservation. 211

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