

## What's News in Property & Projects? - 30 April 2013

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### In the media – National

#### Foreign investment in funds lifts

Offshore investors have been targeting Australian retail property through unlisted wholesale funds, driving firmer yields for prime assets, according to research from Savills Australia (15 April 2013) [More...](#)

(<http://www.propertyoz.com.au/Article/NewsDetail.aspx?p=16&id=7502>)

#### ASIC reinforces problem of property spruikers in SMSFs

ASIC has identified real property spruikers as problem area for self-managed superannuation funds (SMSFs), according to ASIC commissioner. Peter Kell has told a CPA Australia event that the problem of real property investment was identified during an ASIC review of over 100 files relating to the establishment of SMSFs (11 April 2013) [More...](#)

(<http://www.moneymanagement.com.au/news/superannuation/2013/asic-peter-kell-property-spruikers-problem-smsf>)

### In the media – Victoria

#### Councils should offer farms lower differential rates

A Victorian Coalition Government review of local government differential rating powers has found councils should provide lower differential rates for farm land within their municipalities, Minister for Local Government Jeanette Powell said today (11 April 2013)

[Councils should offer farms lower differential rates \(http://www.premier.vic.gov.au/media-centre/media-releases/6451-councils-should-offer-farms-lower-differential-rates-.html\)](http://www.premier.vic.gov.au/media-centre/media-releases/6451-councils-should-offer-farms-lower-differential-rates-.html)

### In the media – New South Wales

#### The new planning system proposals if fully implemented can lift the states prosperity

The raft of new initiatives in the White Paper have tackled the key problem areas in the current planning system and presented good reforms although the detail will ultimately determine the success of the package, says Urban Taskforce CEO, Chris Johnson (16 April 2013) [The new planning system proposals if fully implemented can lift the states prosperity](#)

([http://www.urbantaskforce.com.au/index.php?option=com\\_content&view=article&id=1665:the-new-planning-system-proposals-if-fully-implemented-can-lift-the-states-prosperity&catid=71:media-releases&Itemid=17](http://www.urbantaskforce.com.au/index.php?option=com_content&view=article&id=1665:the-new-planning-system-proposals-if-fully-implemented-can-lift-the-states-prosperity&catid=71:media-releases&Itemid=17))

#### Planning White Paper released: Communities and consultation at the heart of planning

Communities across NSW will shape the future of their streets, suburbs and regions and benefit from faster development application decisions under the biggest overhaul of the State's planning system in over 30 years, with the release of the Planning White Paper which outlines how the planning system will be transformed (16 April 2013) [More...](#)

(<http://www.planning.nsw.gov.au/DesktopModules/MediaCentre/getdocument.aspx?mid=1196>)

### In the media – Queensland

#### Australia set to be No.1 LNG Exporter

Federal Resources Minister Gary Gray has predicted Australia will be the biggest liquefied natural gas (LNG) exporter in the world within five years. Australia is ramping up production to meet global demand for LNG with the International Energy Agency predicting a 50 per cent rise in gas demand by 2035 (17 April 2013) [More...](#)

(<http://minister.ret.gov.au/mediacentre/mediareleases/pages/australia-number-one-lng-exporter.aspx>)

#### Councils to sue Standard & Poors in new action

Australian councils burned by toxic investments in collateralised debt obligations (CDOs) from collapsed bank Lehman Bros. have escalated their legal action and will try and rope-in ratings agency Standard & Poors in their bid to recover losses of around \$200 million (16 April 2013) [More...](#) (<http://www.governmentnews.com.au/2013/04/16/article/Councils-to-sue-Standard--Poors-in-new-action/BTRBXIBMIH.html>)

#### Building Local Resilience in a Changing Climate

The \$4.5 million in 13 Coastal Adaptation Decision Pathways (CAP) projects over 2011-2012 delivers useful tools and fresh analysis for managing climate risk around Australia's coastlines. The project leaders will publish information about their individual projects, offering state and local government decision makers additional information in managing climate risks (15 April 2013) [More...](#)

(<http://www.climatechange.gov.au/minister/greg-combet/2013/media-releases/April/95-13.aspx>)

#### Patchy progress in carbon cutting shows carbon laws at work, highlights policy gaps

The fall in Australia's carbon emissions revealed by today's Greenhouse Accounts Update shows that Australia's carbon policies are

beginning to make progress in most sectors, but that they must be maintained and strengthened to address sectors where

emissions continue to rise (15 April 2013) [More... \(http://www.climateinstitute.org.au/articles/media-releases/patchy-progress-in-carbon-cutting-shows-carbon-laws-at-work,-but-also-highlights-policy-gaps.html\)](http://www.climateinstitute.org.au/articles/media-releases/patchy-progress-in-carbon-cutting-shows-carbon-laws-at-work,-but-also-highlights-policy-gaps.html)

### **Accusations fly over Queensland land clearing laws**

The Queensland government has hit back over its controversial plan to ease restrictions on clearing by farmers and other property owners after the new laws again drew flak from councils over a lack of consultation and environmental groups opposed fearing threatened habitats will be destroyed (19 April 2013) [Accusations fly over Queensland land clearing laws \(http://www.governmentnews.com.au/2013/04/19/article/Accusations-fly-over-Queensland-land-clearing-laws/RTBHMNLNJT\)](http://www.governmentnews.com.au/2013/04/19/article/Accusations-fly-over-Queensland-land-clearing-laws/RTBHMNLNJT)

### **Building sale pays down debt**

The State Government will use the proceeds from the sale of seven office buildings in the Brisbane CBD to pay down close to half a billion dollars in debt (18 April 2013) [More... \(http://statements.qld.gov.au/Statement/2013/4/19/building-sale-pays-down-debt\)](http://statements.qld.gov.au/Statement/2013/4/19/building-sale-pays-down-debt)

### **Queensland builds ecotourism while cutting red tape**

Queensland parliament has passed amendments to increase access and enable innovative investment in the state's National Parks, with changes to the Nature Conservation Act 1992, the Forestry Act 1959 and the Brisbane Forest Park Act 1977 (18 April 2013) [More... \(http://statements.qld.gov.au/Statement/2013/4/18/queensland-builds-ecotourism-while-cutting-red-tape\)](http://statements.qld.gov.au/Statement/2013/4/18/queensland-builds-ecotourism-while-cutting-red-tape)

### **Bill paves way for streamlined conveyancing**

Queenslanders will enjoy more streamlined, simplified conveyancing after legislation to adopt a national electronic conveyancing system was passed in State Parliament today (17 April 2013) <http://statements.qld.gov.au/Statement/2013/4/18/bill-paves-way-for-streamlined-conveyancing> (<http://statements.qld.gov.au/Statement/2013/4/18/bill-paves-way-for-streamlined-conveyancing>)

### **Westfield to redevelop Brisbane centre**

Westfield has announced a \$400 million redevelopment of its Westfield Garden City shopping centre at Mt Gravatt, 12km south east of Brisbane. Completion is expected in late 2014 (15 April 2013) [More... \(http://www.propertyoz.com.au/Article/NewsDetail.aspx?p=16&id=7504\)](http://www.propertyoz.com.au/Article/NewsDetail.aspx?p=16&id=7504)

## **Published – articles, papers, reports – Victoria**

### **Public asset valuation**

Victorian Auditor-General's Office (VAGO)

This report finds that the Valuer-General Victoria's processes for assuring the validity of its valuations are not rigorous (17 April 2013) [Public asset valuation \(http://www.audit.vic.gov.au/publications/20130417-Public-Asset-Valuation/20130417-Public-Asset-Valuation.pdf\)](http://www.audit.vic.gov.au/publications/20130417-Public-Asset-Valuation/20130417-Public-Asset-Valuation.pdf)

## **In practice and courts – Queensland**

### **Electronic Conveyancing National Law (Queensland) Bill 2012**

The Bill would allow businesses, solicitors and the general public to benefit from participating in a consistent national e-conveyancing system. E-conveyancing will be gradually implemented, with the program's first stage expected to commence in Queensland by the end of 2013 (17 April 2013) [More... \(http://statements.qld.gov.au/Statement/2013/4/18/bill-paves-way-for-streamlined-conveyancing\)](http://statements.qld.gov.au/Statement/2013/4/18/bill-paves-way-for-streamlined-conveyancing)

## **Cases – Victoria**

### **TJBP Pty Ltd v Brown & Ors; Mornington Peninsula Shire Council v Brown & Ors [2013] VSC 173**

PLANNING AND ENVIRONMENT – Appeal from order of the Victorian Civil and Administrative Tribunal making an enforcement order under s 114 of the Planning and Environment Act 1987 (Vic) and a declaration under s 124 of the Victorian Civil and Administrative Tribunal Act 1998 (Vic) as to the validity of plans of subdivision – Permit for 41 lot subdivision amended and subsequently extended by the Council – Condition in amended permit provided for the expiry of the permit – Enforcement order made on the ground that the permit had expired by the time it was extended – Whether the permit had expired at time of purported extension – Effect of the initial certification of plan of subdivision – Effect of the permit condition in the amended permit – Whether the enforcement application should be remitted to the Tribunal or finally disposed of – Enforcement application dismissed without remittal – *Osland v Secretary to the Department of Justice* (2010) 241 CLR 320 – Victorian Civil and Administrative Tribunal Act 1998 (Vic) ss 124, 148(7)(b) – Planning and Environment Act 1987 (Vic) ss 68(1), 69, 114 – Subdivision Act 1988 (Vic) ss 7, 11, 13, 41 – Appeal allowed [More... \(http://www.austlii.edu.au/au/cases/vic/VSC/2013/173.html\)](http://www.austlii.edu.au/au/cases/vic/VSC/2013/173.html)

### **Qin v Smith [2013] VSC 158**

REAL PROPERTY – Caveat – Application to remove caveat – Transfer of Land Act 1958 s 90(3) – Serious question to be tried – Estate or interest in land – Balance of convenience <http://www.austlii.edu.au/au/cases/vic/VSC/2013/158.html> (<http://www.austlii.edu.au/au/cases/vic/VSC/2013/158.html>)

### **National Hospitality Group Pty Ltd v Regal Hotels Pty Ltd (Retail Tenancies) [2013] VCAT 413**

Retail Lease – Division 4 Part 10 of the Retail Leases Act 2003 - application of s 54(2) - landlord fails to take reasonable steps within the landlord's control to stop or prevent disruption to the tenant's trading at the retail premises following successive flooding events - claim for compensation damages for loss of profits and abatement of rent [More... \(http://www.austlii.edu.au/au/cases/vic/VCAT/2013/413.html\)](http://www.austlii.edu.au/au/cases/vic/VCAT/2013/413.html)

### **Charles Lloyd Property Group Pty Ltd v Buchanan [2013] VSC 148**

CONTRACT – Sale of land – Sale of undeveloped and forested land for subdivisional development – Occurrence of past suicide

on land — Non disclosure by vendor to purchaser of that fact — Subsequent discovery of event by purchaser — No assertion by vendor of wrongful silence by vendor on a material matter — Agreement to extend completion date of contract despite discovery — Purchaser failed to complete and failed to remedy default — Vendor’s rescission — Purchaser’s action to annul contract on the grounds of misleading and deceptive silence — Vendor’s application for summary dismissal — Application granted. FAIR TRADING — Misleading and deceptive conduct — “Engaging in conduct” — Conduct by silence — Mere silence — Elements of liability — Requirement for materiality — Requirement for reliance and being led into error — Fair Trading Act ss 3, 9. PRACTICE AND PROCEDURE — Summary dismissal — Applicable test under Civil Procedure Act — “No reasonable prospect of success” — Differentiation from established test under Rules of Court for summary judgment — Civil Procedure Act ss 63, 64 — Rules of Court r 22, 23 [More... \(http://www.austlii.edu.au/au/cases/vic/VSC/2013/148.html\)](http://www.austlii.edu.au/au/cases/vic/VSC/2013/148.html)

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