

## Moya Steele

### Principal

#### PLANNING & ENVIRONMENT

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Moya Steele specialises in all areas of law pertaining to planning, development management and project management, including strategic advice, development application management, environmental issues, Planning and Environment Court litigation, Land Court litigation and commercial negotiations for all groups within the development industry. Moya operates State-wide where her projects are located..

#### Areas of Practice

- Development advisory services
- Planning and development law (approvals and enforcement)
- Strategic advice (including due diligence) and project management
- Environmental law (approvals and enforcement)
- Legislation and planning instrument drafting

#### Experience

Moya has acted on behalf of major developers to provide project management and strategic legal assistance in planning and environment approval processes for development under various applicable legislative regimes, including:

- Development Applications under the *Sustainable Planning Act 2009* and repealed *Integrated Planning Act 1997*;
- Approval of 'controlled actions' under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth);
- Approval of projects of State significance or within State development areas under the *State Development and Public Works Organisation Act 1971*;
- Input into priority development areas under the *Economic Development Act 2012*;
- Licensing and permits under the *Mineral Resources Act 1989*;
- Dealings with nature refuges under the *Nature Conservation Act 1992*; and

- Environmental legislation such as the *Environmental Protection Act 1994*, the *Coastal Management and Beach Protection Act 1995* and related State planning policies.

Moya has advised on, or project-managed, approvals for major tourist resort developments, ecologically sustainable development projects, residential subdivision projects, shopping centres and large scale retail developments, extractive industries and infrastructure projects for strategic planning and environmental impact assessment matters.

Moya has both defended and prosecuted enforcement actions by and on behalf of local governments and private parties, for breach of approvals or conditions, environmental harm, local laws or planning scheme-related development offences.

Moya successfully acts as Instructing Solicitor in respect of appeals to the Planning and Environment Court by applicants against refusals of development applications or imposed conditions of approvals and by submitters against approvals. She has sought declarations in the Planning and Environment Court and compensation for land acquisition in the Land Court. Moya has successfully opposed cultural heritage listing of private commercial land, and is the only instructing solicitor to set aside two ministerial call-in decisions in the Supreme Court of Queensland, leading to legislative change by the Queensland Government on this power.

Moya's practice extends to detailed development potential and environmental due diligence assistance for the purchase of development land, and strategic project management of, or advice on, complex application processes. She has advised on and actioned the implementation and satisfaction of conditions of approvals. Both roles include management, liaison and consultation with economic, planning, scientific, environmental and engineering consultants and all levels of Government. Moya has also drafted and



implemented processes for resolution of issues such as infrastructure agreements, port protection and amenity, environmental covenants and impact mitigation arrangements for major developments.

- She has provided legal assistance and advocacy insight to the Urban Development Institute of Australia, the Property Council of Australia, the Departments of Local Government, Infrastructure Planning and the Coordinator General's Department leading to legislative change in relation to the interpretation of the *Sustainable Planning Act 2009* and the *Integrated Planning Act 1997* (repealed). She is presently a lead advisor to a government owned corporation on waterways management and planning. She has negotiated conditions of development permits, plans of development and council/developer infrastructure contribution agreements. She has also drafted environmental impacts assessments, planning instruments, local area codes and submissions for amendment of planning schemes and statutory planning documents, including terms of reference for projects of State significance.

Moya's more specific experience is listed below:

#### **Application Management and Project Management**

- Acted on behalf of applicants to provide project management and legal assistance in making applications under the *Sustainable Planning Act 2009* and *Integrated Planning Act 1997* (repealed) and satisfaction of approvals, including:
  - liaison with town planning, engineering, traffic, environmental, vegetation, cultural heritage, native title, design, visual amenity, landscaping and other project consultants to satisfy all aspects of the legislation for lodgement of development applications;
  - monitoring assessment manager and state government agency compliance with legislative processes to control timeframes and ensure efficient approvals are obtained;
  - reviewing and co-ordinating all pre-application reports, information requests and responses for removal/protection of legal compliance issues and strategic outcome management;
  - legal advice and submissions in response to legal issues by submitters, assessment managers;
  - involvement in public consultation actions;
  - formal negotiation of decision notices and conditions;
- infrastructure agreements; and
- completion of development approval conditions.
- Legal advice and negotiations with and for local governments on:
  - upholding and confirming the validity of development permits for the land;
  - advices on gazettal and construction of access roads and physical infrastructure issues; and
  - investigating legal issues surrounding masterplanning development including native title, vegetation, environmental protection, coastal management and beach protection.
- Acted on behalf of a publicly listed company in relation to the Townsville Ocean Terminal Project, a \$1 billion project of State significance declared under the *State Development and Public Works Organisation Act 1971* including:
  - preliminary strategic advice on process under all applicable State/Local Government and Federal legislation;
  - drafting and negotiating amendments to controlling legislation (*Breakwater Island Casino Agreement Act 1984*) leading to its amendment and re-gazettal in 2006 (BICA 2006);
  - drafting the Surplus Casino Land Scheme pursuant to the *BICA 2006 Act* to provide town planning control to relinquished land surrounding the development site;
  - drafting the Future Development Area Scheme as a planning instrument to control the project;
  - project management and coordination of consultant team for the initial preliminary information package, terms of reference and environmental impact statements;
  - liaison with the coordinator general's office throughout the process;
  - preparing submissions, presentations, supporting documentation for community and stakeholder consultations;
  - preparing documentation in support of resolution of port protection and environmental issues;
  - liaison with Government departments such as the Environmental Protection Agency, Department of Natural Resources and Mines, and Department of Primary Industries;
  - monitoring the media and actions of environmental groups;
  - project management of expert consultants; and



- investigations and advices, together with project management and the referral process under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) to approval.
- Acted on behalf of a major developer to obtain approval from the Commonwealth Department of Sustainability, Environment, Water, Heritage and the Arts (SEWHA) under the *Environment Protection and Biodiversity Conservation Act 1999* for a major tourist resort within a World Heritage listed coastal island and a number of residential subdivisions, including:
  - project management of expert consultant team;
  - drafting referral documentation;
  - drafting preliminary information packages for assessment;
  - drafting public consultation requirements;
  - negotiations for approval conditions;
  - monitoring the media and actions of environmental groups; and
  - obtaining State-level approvals for related matters.
- Acted for and advised residential land subdivisions on referral processes;
- Acted for not-for-profit community groups to obtain Ministerial designations of community infrastructure (including a drug and alcohol rehabilitation centre); and
- Negotiating Cultural Heritage issues with traditional owner groups, including preparation and agreement to indigenous land use agreements.

#### **Environmental Law**

- Environmental due diligence and compliance investigations for environmentally relevant activities and sites;
- Negotiation of resolution of allegations of unlawful clearing and environmental harm for residential development;
- Instigated prosecution on behalf of a landowner seeking rehabilitation orders for contamination (environmental harm) caused to private land;
- Advising on transitional environmental management plans for a resource entity;
- Advice and due diligence investigations to major port authority on environmental duties and risks;
- Advice and assistance to developers of residential land on referral process and issues for impact of matters of national environmental significance

for development projects under the EPBC Act, including resolution of offence allegations; and

- Advice to a large port authority on bilateral agreement processes under the EPBC Act.

#### **Ministerial Call In Matters**

- Successfully acted on behalf of developers as an Instructing Solicitor in respect of the setting aside of ministerial call ins of development applications and approvals by declarations to the Supreme Court, Queensland in:
  - *Emerald Developments (AUST) Pty Ltd v Minister for Environment, Local Government, Planning and Women* [2006] QSC073; and
  - *Landel Pty Ltd v Hinchcliffe & Anor* [2009] QSC408.
- The Landel decision (listed above) creates a significant new precedent in relation to the requirement of a Minister to give procedural fairness to a developer prior to calling in a Development Application; and
- Advised and instructed local governments and affected parties to Ministerial Call-Ins.

#### **Planning and Environment Court**

- Successfully acted as Instructing Solicitor in respect of appeals in the Planning and Environment Court, Queensland on:
  - deemed refusals;
  - submitter objections;
  - refusal of applications; and
  - conditions of approvals.
- Acted for clients to both institute and defend Applications for Declarations in the Planning and Environment Court for:
  - interpretation of planning instruments;
  - challenging lawfulness of land use;
  - upholding validity of currency periods for Development Approvals; and
  - rectifying historical issues for Development Approvals.
- Successfully acted on behalf of private submitters in opposing development approvals impacting on residential amenity;
- Successfully opposed Queensland Heritage Council listing of buildings on the Queensland Heritage Register;
- Successfully opposed declaration proceedings to strike out gazettal of nature reserve designations under the Nature Conservation Act; and



- Successfully resolved litigation, without requirements to proceed to hearing in many circumstances.

#### Land Court

- Acted on behalf of private property owners for compensation for land acquisition for Wet Tropic World Heritage Purposes (first claim in Queensland);
- Acted for major petroleum distributor and property developers in respect of a land resumptions pursuant to the *Transport Infrastructure Act 1994* and the *Acquisition of Land Act (Qld) 1967*, including:
  - lodging claims for compensation;
  - referrals to the Land Court for hearing;
  - settlement negotiations;
  - trial hearings; and
  - Land Appeal Court hearings.
- Provided strategic advice to valuation assessments (on planning matters for compensation).

#### Legislation and Statutory Instrument Drafting

- Provided legal assistance and training seminars to industry groups such as the Urban Development Institute of Australia in relation to the interpretation of the planning legislation;
- Negotiated conditions of development permits, plans of development and council/developer contribution agreements;
- Member of industry reference groups for development of planning schemes;
- Drafted planning instruments, such as local area codes for amendment of planning schemes;
- Acted on behalf of major developers in respect to the implementation and approval of Court approved plans of development including liaison and consultation with engineering, traffic, landscaping consultants and local government departments;
- Drafting and implementing covenants for major residential developments for:
  - Building and architectural controls; and
  - Environmental issues.
- Acted for major property developers in respect to acquisition of proposed development sites including:
  - detailed contractual drafting; and
  - completion of special conditions regarding town planning consents.

#### General Property and Development matters

- Acted for private persons regarding applications

to the Department of Natural Resources for:

- permanent road closures;
- grants of unallocated state land;
- grants of Special Leases and other property interests pursuant to the *Land Act 1994*; and
- valuation of land and objections thereto.
- Advised port authorities and airports under the *Land Act 1994* with regard to:
  - implementation of processes to act as assessment managers;
  - amendment of land use plans;
  - framework/drafting legal review of land use strategies; and
  - general advices on development.
- Acted on behalf of developers for licence requirements under the *Environmental Protection Act 1994* including:
  - applications for extractive industry permits;
  - applications for dredging permits; and
  - temporary or mobile ERA approvals.
- Acted on behalf of major property developers regarding commercial negotiations for resolution of:
  - public issues/neighbour;
  - planning disputes;
  - storm water drainage;
  - road construction issues resultant from development; and
  - infrastructure agreements.
- Provided general commercial advice and conducted general commercial transactions.

#### Qualifications And Memberships

- Admitted as a Solicitor of the Supreme Court of Queensland, 2000
- Bachelor of Arts (Japanese), Bachelor of Laws, James Cook University, 1998
- Director, Townsville Enterprise Limited
- Director, SunWater Limited
- Committee Member, Property Council of Australia (Townsville Branch)
- Member, Urban Development Institute of Australia
- Member, Queensland Environmental Law Association
- Member, Townsville Chamber of Commerce
- Member, Australian Institute of Company Directors.