

Episode 50: Summary

Episode name: Put Up a Park(ing) Lot – Developments in Ecologically Sustainable Planning

Guest(s): Amelia Thorpe

What area(s) of law does this episode consider?

International environmental and planning law, and planning law in New South Wales including:

- the importance of public participation; and,
- the impact of environmental considerations in planning.

Why is this topic relevant?

Sitting frequently at the intersection of law and politics, city planning and the protection of public spaces and the environment is an often contentious issue. Since the 1970s, there has been an increasing push for more public participation in the planning process beyond a unitary decision at the ballot box.

In New South Wales, the way that State Environmental Planning Policies and Local Environmental Plans interact is often complicated and varies between localities.

What legislation is considered in this episode?

Environmental Planning and Assessment Act 1979 (NSW) (EPA Act)

Heritage Act 1977 (NSW)

Legal Aid Act 1979 (NSW)

What cases are considered in this episode?

Gloucester Resources Limited v Minister for Planning [2019] NSWLEC 7

- Gloucester Resources Limited (GRL) proposed the development of a coal mine in Gloucester Valley. The proposal was refused by the NSW Planning Assessment Commission at first instance. On appeal by GRL to the NSWLEC, Groundswell Gloucester Inc, a community group, raised the impact of the coal mine on climate change. Preston CJ found that the mine development should be refused due to significant planning, social, and visual impacts. The decision marked the first rejection of a coal mine in Australia in part due to its impact on anthropocentric climate change.

What are the main points?

- Park(ing) Day epitomises the benefits that arise from participation in debates about public spaces, and the need for greater such participation in planning.
- The *EPA Act* encourages public participation in NSW and encourages developers and planners to consider the wider impacts that development will have on the environment.
- There are various types of State Environmental Planning Policies (SEPPs) that determine what is required and what is prohibited in planning and development. These SEPPs interact with Local Environmental Plans that differ between local council areas.
- The Minister for Planning and Public Spaces has considerable discretion in making decisions that relate to planning and development. This discretion has

been criticised but is also necessary to effectively balance the many competing demands of planning and development.

What are the practical takeaways?

- If you are looking to get involved in environmental and planning law, volunteering at the Environmental Defenders Office or with the NSW Young Lawyers is a great way to start. Volunteering for local community groups that are concerned with specific local developments is another option.

Show notes

[Book written by the EDO 'Caring for Country'](#)

[Amelia Thorpe: 'Owning the Street: The Everyday Life of Property'](#)

[Kaldas review of decision-making in the planning system](#)

[Four Corner's episode, 'Packer's Crown casino gamble'](#)