



**Moya Steele** | Partner, Planning and Environment

Commercial Team  
Townsville

**P** 07 4722 0224

**E** msteele@macdonnells.com.au

Moya Steele is a Partner specialising in all areas of law pertaining to planning, development management and environmental law throughout Queensland, including application / project management, Planning and Environment Court litigation, Land Court litigation and commercial negotiations for all facets of development.

### Areas of Practice

- Planning and Environment law
- Application Management and Project Management
- Legislation and Statutory Instrument Drafting
- Land Court matters

### Experience

Moya has acted on behalf of major developers to provide project management and legal assistance in the approval of all matters of development under various applicable legislative regimes in Queensland. Her works include:

- Development Applications under:
  - the *Integrated Planning Act 1997* and the new *Sustainable Planning Act 2009*;
  - approval of 'controlled actions' under the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999*;
  - approval of projects of State significance or within State development areas under the *State Development and Public Works Organisation Act 1971*;
  - licensing and permits under the *Mineral Resources Act 1989* and the *Nature Conservation Act 1992*; and
  - dealing with approvals, issues and matters under all associated environmental legislation such as the *Environmental Protection Act 1994*, the *Coastal Management and Beach Protection Act 1995*.

Moya has acted on behalf of developers for major tourist resort developments, mixed use residential projects, shopping centres and large scale retail developments, extractive industries and infrastructure projects for strategic planning and environmental impact assessment matters.

Moya has successfully acted on behalf of major developers and local governments as an instructing solicitor in respect of appeals 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, Queensland. Moya has successfully opposed cultural heritage listing of private commercial land and is the only Instructing Solicitor to set aside two (2) Ministerial Call-In decisions in the Supreme Court, Queensland.

Moya has provided legal assistance to the UDIA, and Department of Local Government and Planning and the Co-Ordinator General's Department leading to legislative change in relation to the interpretation of the *Integrated Planning Act 1997*, and she has negotiated conditions of Development Permits, Plans of Development and Council/developer 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 such as Terms of Reference for projects of state significance.

Moya's practice extends to detailed development potential and environmental due diligence assistance for the purchase of development land, and project management of complex applications processes and the implementation and satisfaction of conditions of approvals, including 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 port protection and amenity, environmental covenants and impact mitigation arrangements for major developments.

*Moya's more specific experience is listed below:*

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

- Acted on behalf of major developers to provide project management and legal assistance in the making of Applications under the *Integrated Planning Act 1997* (IPA) 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 of assessment manager and state government agency compliance with legislative processes to control timeframes and ensure efficient approvals are obtained;
  - review and co-ordination of 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
  - completion of development approval conditions.
- Legal advice and negotiations with local governments on:
  - upholding and confirming the validity of development permits for the Land;



- submitting alternative plans to Council to be determined as “generally in accordance with” original development approvals;
  - advices on gazettal and construction of access roads and physical infrastructure issues; and
  - investigation of all legal issues surrounding the development including, native title, environmental protection, coastal management and beach protection vegetation.
- Acted on behalf of a company in relation to the Townsville Ocean Terminal Project, a \$1 Billion dollar 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 negotiation of amendments to controlling legislation (*Breakwater Island Casino Agreement Act 1984*) leading to its amendment and re-gazettal in 2006 (BICA 2006);
    - drafting of the Surplus Casino Land Scheme pursuant to the BICA 2006 Act to provide town planning control to relinquished land surrounding the development site;
    - drafting of 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;
    - preparation of submissions, presentations, supporting documentation for community and stakeholder consultations;
    - preparation of 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, Department of Primary Industries;
    - monitoring of 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 *Environmental Protection and Biodiversity Conservation Act 1999* to approval.
  - Acted on behalf of major developer to obtain approval from the Commonwealth Government Department of Water, Environment, Heritage and the Arts (DEWHA) under the *Environmental Protection and Biodiversity Conservation Act 1999* for a major tourist resort within a World Heritage listed coastal island, including:
    - project management of expert consultant team;
    - drafting of referral documentation;
    - drafting of Preliminary Information Packages for assessment;



- drafting of public consultation requirements;
- negotiations with DEWHA for approval conditions;
- monitoring of media and actions of environmental groups; and
- obtaining related State level approvals for land clearance erosion prone area reductions and endangered vegetation matters.
- Advice and assistance to developers with negotiations with DEWHA for impact of matters of National Environmental Significance for development projects under the EPBC Act for including resolution of Development Approvals for endangered black throated finch and other endangered fauna requirements;
- Assisting developers in relation to negotiation of resolution of allegations of unlawful clearing or environmental harm.
- Advice to community groups and developers in relation to community infrastructure, State Ministerial designations and other appropriate processes for achieving approvals.
- Negotiation of Cultural Heritage issues with Traditional Owners groups, including preparation and agreement to indigenous land use agreements.
- Acted on behalf of various applicants in respect of actions under the *Integrated Planning Act 1997* such as:
  - lodgement of submissions; and
  - land use compensation.

#### ***Ministerial Call In Matters – Supreme Court Declaration Actions***

- 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 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.

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

- Successfully acted on behalf of major developers as an instructing solicitor in respect of appeals in the Planning and Environment Court, Queensland against:
  - deemed refusals;
  - refusal of applications; and
  - conditions of approvals;
- Acted for major property developers to both institute and defend Applications for Declarations in the Planning and Environment Court for:
  - interpretation of planning instruments; and



- challenging lawfulness of land use; and
- upholding validity of currency periods for Development Approvals.
- Successfully acted on behalf of private submitters in opposing development approvals impacting on residential amenity.
- Successfully opposed the Queensland Heritage Council listing of the Townsville T & G Building on the Queensland Heritage Register.
- Acting as an Instructing Solicitor in:
  - Landel Pty Ltd and Anor v Redland Shire Council (2000) QPELR 60
  - Landel Pty Ltd and Anor v Redland Shire Council (2000) QPELR 212
  - Landel Pty Ltd & Lanrex Pty Ltd v Redland Shire Council (2001) QPELR 224
  - Landel Pty Ltd & Lanrex Pty Ltd & Lipoma Pty Ltd v Redland Shire Council (2001) QPELR 234
  - Charles Porter & Sons Pty Ltd v Mackay City Council and Ors (2001) QPELR 227
  - Fernhunt Pty Ltd v Mackay City Council and Anor (2002) QPELR 447
  - Landel Pty Ltd and Anor v Redland Shire Council (2002) QPELR 402
  - Stainton v TCC and Ors [2004] QPELR 597
  - Woolworths Limited v Townsville City Council and Ors [2004] QPEC 092
  - Reelaw v Queensland Heritage Council (No. 2) [2004] QPEC 090
  - Reelaw v Queensland Heritage Council [2004] QPEC 079
  - Gantor and Ors v Townsville City Council and Ors [2004] QPEC 057
  - King v Charters Towers City Council and Ors [2004] QPELR 51
  - Jewry v Maroochydore Shire Council and Anor [2005] QPEC 030
  - Juniper Development Group v Jewry [2005] QPEC 097
  - Tanby Gardens Pty Ltd v Livingstone Shire Council & Ors [2007] QPEC 097;
  - Sevmere v Cairns Regional Council & Ors [2008] QPEC 077;
  - Cairns Aquarius Body Corporate Committee & Anor v Cairns Regional Council [2009] QPEC 086; and
  - Body Corporate for Coral Horizons v Cairns Regional Council & Anor [2009] QPEC 095.
- Successfully resolved litigation, without requirements to proceed to hearing in many circumstances.

### ***Legislation and Statutory Instrument Drafting***

- Provided legal assistance and training seminars to industry groups such as the UDIA in relation to the interpretation of the planning legislation.
- Negotiated conditions of Development Permits, Plans of Development and Council/developer contribution agreements.



- Drafted Planning Instruments, such as Local Area Codes for amendment of Planning Schemes.
- Acted on behalf of major developers in respect of the implementation and approval of Court approved Plans of Development including liaison and consultation with engineering, traffic, landscaping consultants and Local Government Departments.
- Acted on behalf of major developers to draft and implement covenants for major residential developments for:
  - Building and Architectural controls; and
  - Environmental issues.
- Acted for major property developers in respect of acquisition of proposed development sites including:
  - detailed contractual drafting; and
  - completion of special conditions regarding town planning consents.

#### **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:
  - lodgement of claims for compensation;
  - referrals to the Land Court for hearing;
  - settlement negotiations;
  - trial hearings; and
  - Land Appeal Court hearings.

#### **General Commercial 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 Authority and Airports 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; and
  - road construction issues resultant from development.
- Provided general commercial advice and conducted general commercial transactions.

#### **Qualifications & Memberships**

- Admitted as a Solicitor of the Supreme Court of Queensland, 2000;
- Bachelor of Arts (Japanese), Bachelor of Laws, James Cook University, 1997;
- Committee Member, Urban Development Industry Association (Townsville);
- Member, Queensland Environmental Law Association; and
- Member, Townsville Enterprise Limited.