

Australian civil procedure (5th ed)

Bernard Cairns
Law Book Company 2002



Matters of civil practice and procedure face practitioners every day. Whether it be a decision as to who to commence proceedings against, where to commence those proceedings, or whether proceedings that have been compromised should be discontinued or dismissed. Often these problems are quite straightforward, but more often than not, they are not straightforward.

Most problems, whether they be straightforward or difficult, can usually be worked through by starting at first principles – a sound understanding of the principles on which the civil litigation system in which we practice is therefore fundamental.

There are few modern publications which provide a comprehensive explanation of civil litigation procedures in Australia. Those which do exist are either long out of date, or are contained in specialised loose leaf services which are specifically tailored to the subject matter of that service.

One publication which does provide a modern overview of the civil litigation system in Australia, is *Australian Civil Procedure* by Bernard Cairns, the 5th edition of which was recently published.

This book provides a comprehensive explanation of the civil litigation procedures applying across all Australian jurisdictions, both Federal and State. The book considers all aspects of procedure from the initial stages – jurisdiction, commencement of proceedings and service of process – to the final stages – appeals and execution. The 5th edition now also includes a useful chapter on settlement. The discussion on class actions or representative proceedings has also been expanded having regard to recent, principally Federal Court, decisions, and the section dealing with cross-vesting and cross-vesting procedure has been updated having regard to the decision of the High Court in *Re Wakim; ex parte McEnally* (1999) 198 CLR 511, and the legislative responses thereto.

As with all publications, some topics

and cases are treated somewhat curiously. One example in the present text is the treatment of the decision of the High Court in *State of Queensland v JL Holdings Pty Limited* (1997) 189 CLR 146, which is discussed extensively in the section dealing with case management, although it does not rate a mention in the section dealing with amendments.

The book is in no way a substitute for a looseleaf service dealing with a particular jurisdiction. It does, however, have many practical benefits. In addition to providing a thorough explanation of the fundamental principles underlying civil litigation procedure, the book provides authorities, across all Australian jurisdictions. Often specialist looseleaf services concentrate on the authorities of that jurisdiction, in circumstances where there are very useful authorities to be found elsewhere.

The book is recommended to those practitioners requiring an easily accessible and comparatively inexpensive discussion of civil procedures in Australia.

Reviewed by Ian Pike

Environmental impact assessment in Australia:

Theory and practice (3rd ed)

Ian Thomas
Federation Press 2001



Environmental impact assessment: 'One of the deceitful co-options of the concept of ecology and environment. Whilst sanctimoniously reciting the catechism of 'environmentalism' it anoints and blesses the 'process' of development'. Thus speaks one of the many reviewers (and critics) of environmental impact assessment considered by Ian Thomas in his third edition of *Environmental Impact Assessment in Australia*.

While this third edition follows, in general, the same structure as the first two editions of this analysis of environmental impact assessment in Australia, the content has been updated to take into account the primary legislative changes in each jurisdiction including, in particular,

the introduction of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* ('the EPBC Act') and the introduction of 'integrated development' into the New South Wales planning system by the 1 July 1998 amendments to the *Environmental Planning and Assessment Act 1979*.

The new section on the EPBC Act is particularly useful. In a little over 10 pages, Thomas effectively discloses the essential structure of the Act and explains, in clear terms, the concepts of a 'controlled' action (a form of action which triggers the requirement for approval under the Act), 'matters of national environmental significance' (one of the components of a 'controlled' action – namely that the action has, will have, or is likely to have a significant impact on a matter of national environmental significance) and the administrative guidelines, which provide criteria for determining whether or not any particular impact is 'significant'. Given the complexity of the EPBC Act, this section alone of the third edition makes it a valuable contribution to the understanding of environmental impact assessment in Australia.

There are two other primary attractions of the third edition. The reference list is extensive and enables the reader readily to locate more detailed information in respect of the topics of interest. This is particularly important given that Thomas's work reviews not only a comprehensive range of impact assessment procedures (Chapter three: 'The many faces of impact assessment'), but also the (vast) range of methods and models for predicting impacts (Chapter eight: 'Determining impacts for the EIS'). Given that the range of impact assessment procedures include economic impact assessment, energy analysis and greenhouse assessment, health impact assessment, regulatory impact assessment, risk analysis, social impact assessment, species impact assessment, technology assessment, cumulative impact assessment, strategic environmental assessment and integrated impact assessment, the reference list is essential.

The other particularly attractive feature of the third edition is that both the reference list and the text itself contain numerous references to Internet addresses, both of government and educational institutions, relevant to many of the topics