Report from ANZAPS
Ali Memon

1. What is ANZAPS and what does it do?
The acronym ANZAPS stands for the Australia and New Zealand Association of Planning Schools. ANZAPS is a network of planning educators covering New Zealand and Australia. It serves as a forum for the exchange of information between academics and planning programs in the two countries. Another way to describe ANZAPS is as an informal community of planning scholars down-under. Comparable organisations exist in other global regions such as Europe, Africa, North America and Asia but these tend to operate in a more structured fashion.

Information about ANZAPS is available on its website: www.anzaps.org. The two main activities of ANZAPS are as follows:

a. A free web-based mailing list replan@maillists.uwa.edu.au. This mailing list is used extensively by academics and PhD research students within the region to circulate information on a range of topics related to teaching, forthcoming conferences of interest to planners and academic career opportunities.

b. The annual ANZAPS conference. Planning schools in Australia and New Zealand take turns to organise the annual conference. Registration for the conference is free to encourage staff and senior post-graduate students to participate and present papers relating to teaching and research in the discipline of planning.

Apart from being a forum for informal networking, the conference also provides an opportunity to discuss issues of interest related to the well-being of the planning discipline on both sides of the Tasman ditch (see brief report on the 2009 conference below).

The ANZAPS conference in 2010 will be hosted by Lincoln University and will be held back-to-back with the joint Planning Institute of Australia/New Zealand Planning Institute conference in April. Visit the conference website at http://www.lincoln.ac.nz/news–events/conferences/anzaps20101/

ANZAPS is one of the members of the GPEAN (Global Planning Education Association Network). Very briefly, GPEAN is the global counterpart of regional associations such as ANZAPS. A key activity of GPEAN is to convene the five yearly World Planning Schools Congress. The next GPEAN conference will be held at the University of Western Australia in Perth in 2012. The website for GPEAN is www.gpean.org. Currently, Ali Memon (Lincoln University) and Jo Rossier (University of the Sunshine Coast) act as the ANZAPS representatives on the GPEAN Co-ordinating Committee and the Conference Steering Committee.

GPEAN also edits the annual Dialogues in Urban and Regional Planning series published by Rutledge and undertook a global study of planning education for the UN Habitat Global Report published in 2009 (Stiftel et al 2009 in research publications list in this LUPR issue).

2. The 2009 ANZAPS conference
The 2009 conference was jointly organised by the planning schools in Queensland and held at the QUT in Brisbane in August. About twenty papers, both refereed and non-refereed, were presented during the first one and a half days by academics and postgraduate students on a broad range of themes. The abstracts and some of the papers can be downloaded from the ANZAPS website.

The last half day of the conference was allocated to discussing two general issues:

a. ranking of planning journals for the Australian equivalent of the five yearly exercise undertaken in New Zealand by the Tertiary Education Commission to rank all academics on strength of their publication record. This recently completed exercise has major implications for funding of academic disciplines in Australian universities and it is pleasing to note that ANZAPS was asked to undertake this exercise on behalf of the Australian planning schools. Hopefully, this is a precursor to what may transpire in New Zealand in the near future.

b. PIA/NZPI/ANZAPS Education Policy/Accreditation. Both PIA and NZPI are in the process of adopting new education policies and accreditation procedures. One of the issues this raises is divergence between the two institutes in this arena and implications for reciprocal membership. It was felt that ANZAPS should play a stronger role in this area.

Planning Pains? Don’t Panic!
Questions about planning issues.

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Questions - I am an expert witness in an RMA hearing. My client is settling out of court and has asked me to agree to not provide evidence for any other party. The client also says I could not act for any other party in anyway, as I would be conflicted due to my provision of professional services to my client in this case. I have been approached by another party to appear for them.

Is it appropriate for a client to demand that an expert witness not be available to other parties as part of an out of court settlement of an appeal? Second, how could my expert advice to a client prevent me from giving expert advice to another client in the same case?

Response – A number of lawyers and clients insist that expert witnesses they employ cannot appear for other clients in the same proceedings. Some experts believe the same.

However, the client does not have property in a witness. The
expert witness is a friend of the court, there to aid the court, not the client. The witness could not be prevented from appearing for another client if the witness was prepared to do so. It is also worth noting that if the client has settled out of court then there is unlikely to be any conflict because the former client is no longer involved in the case.

An out of court settlement between an appellant and a defendant that contained a clause ostensibly preventing a court from hearing a witness for the other side would not prevent the witness from doing so. It is worth recalling that a witness can be subpoenaed regardless of any such agreements. The expert opinion would not have changed because of a change in client, unless new information led to some change in the opinion.

With regard to the second question, some lawyers take the view that the witness, especially planning witnesses, play such a key role in case preparation that they are inherently compromised. However, if the witness has played a key role in deciding how the case should be run such that it would lead him to be compromised as an expert witness for another party, then the witness is also compromised as an expert witness for the original client. The opinion of an expert witness should not be influenced by the nature of how a case is to be argued, rather they provide their expert opinion as advice to the lawyer.

Show me an expert witness who says they cannot appear for a party because they are already appearing for another party and I would suggest that in reality you are showing me a ‘hired gun’, not an expert witness.

Having said this, depending on your contractual relationship with your original client, it would not necessarily be appropriate for you to present material and analysis that had been paid for by your original client. Here you need to tread warily and many would advise against further involvement in the case. The original client might claim ownership of source material and there could be a question of partiality. Although the witness has an overriding responsibility to the Court, there is a secondary obligation to the former client in relation to the information collected/collated.

A number of situations arise where clients do some ‘bulk shopping’, essentially buy up all the expertise in a particular field critical to a case, and then suppress that information by not calling the witness or not funding research beyond that which the client considers is in its best interests. Under the Environment Court’s Code of Conduct for Expert Witnesses, not being able to conduct a full range of tests or samples should be divulged to the hearing if it might affect your evidence or opinion.

Some companies may have longstanding relationships with particular clients and not wish to offend them by allowing their staff to appear for opposing parties in a case. In such situations your contractual relationship with your employer becomes significant, but will not prevent you from being subpoenaed. Note that you can be subpoenaed by council hearings under the RMA, not just at the Environment and higher Courts. If clients and suppliers of expert services ‘lock up’ experts, we may see increasing use of subpoena.

Choice Modelling Experts Workshop
Geoff Kerr*

In November, Lincoln University, under the direction of Associate Professor Geoff Kerr, hosted the fourth Australasian Choice Modelling Experts Workshop at the Heritage Hotel in Christchurch. Choice modelling is a technique used by environmental economists to measure the values, often in money terms, of environmental and landscape attributes. The technique is also extremely useful for predicting behavioural changes, having particularly important applications in transport modelling.

While non-market valuation has not been widely employed in New Zealand environmental decision making, the recent Environment Court decision on Project Hayes clearly signalled the Court’s desire for application of these types of methods.

[624] Given that [the witness] had identified that there are recognised non-market valuation methods of placing a value on these [largely landscape] environmental impacts, it is disappointing that Meridian’s principal expert failed to utilise them. Accepting that neither [of the witnesses] may have particular expertise in such methods, Meridian could have engaged someone with appropriate expertise to provide what estimates they could be using such methods. (Decision No. C 103/2009 Maniototo Environmental Society Incorporated & others (Appellants) vs Central Otago District Council and Otago Regional Council (Respondents) and Meridian Energy (Applicant & Appellant)).

The workshop was capped at 40 attendees, a limit that was easily reached. This far surpassed attendance at previous workshops, signalling increased interest in this type of analysis. Part of the broader appeal was attendance of 14 PhD students at the workshop, facilitating transfer of knowledge to and amongst future practitioners and experts. Expansion from environmental interests to transport, food, and health domains was also pleasing, providing an opportunity for cross-disciplinary fertilisation. Half of the participants travelled from Australia. Keynote addresses were provided by Professor David Hensher, Institute of Transport and Logistics Studies, University of Sydney and Professor Jordan Louviere, Centre for the Study of Choice, University of Technology Sydney.

For further information on choice modelling or the workshop contact Geoff Kerr Geoffrey.Kerr@lincoln.ac.nz

* Geoff Kerr is Associate Professor Environmental Economics, Department of Environmental Management, at Lincoln University.

NZPI CEO Resigns

Keith Hall, the NZPI CEO has announced he is returning to North America to re-involve himself in professional transport planning in Toronto. In his 30 months as CEO he has had a significant impact on the NZPI. He brought a passion for improving the standing of the profession, tightening the standards for membership admission while encouraging more people to join and enhancing communication among members. He will be a hard act to follow.