



Intelligent Transport  
 Planning Solutions



# Practical Considerations For Land Owners And Developers Arising From The Flood And Water Management Act 2010

## The new Act

The Flood and Water Management Act 2010 received Royal Assent on 8 April 2010. The Act takes forward several Government strategy documents and, importantly, reflects the Government's response to Sir Michael Pitt's Review of the Summer 2007 floods. The aim of the Act is to improve flood risk management, to manage water more sustainably and to improve services to the public.

The provisions of the Act are coming in to force gradually, following the completion of consultations with interested parties. This article summarises the two concepts being introduced by the Act that will have the biggest potential impact on land owners and developers, and considers a number of practical considerations arising from those matters.

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## European Commission publishes final report on Sustainable Competitiveness of the Construction Sector and issues public consultation

The European Commission has recently commenced a consultation exercise regarding future sustainability and competitiveness within the EU construction sector. This consultation was initiated following the publication of the Commission report on the Sustainable Competitiveness of the Construction Sector and its enterprises (the "Commission Report").

The Commission Report identified "sustainable competitiveness" as being the ability of construction companies to achieve and maintain an appropriate level of economic performance when working within the EU construction market while at the same time being able to compete in markets that are open to international competition and pursuing sustainable development objectives. Those sustainable development objectives are varied and include such matters as respect for the environment, social well being, employment and resource efficiency.

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## Electricity Market Reform – the highlights

On 12 July the Department of Energy and Climate Change (DECC), released its eagerly anticipated Electricity Market Reform White Paper (the White Paper). The contents of the White Paper bring some further clarity to the measures described in DECC's prior consultation document of 16 December 2010.

The White Paper sets out the Government's commitment to transform the UK's electricity system to "*ensure that our future electricity supply is secure, low-carbon and affordable.*"

Chris Huhne, Secretary of State at DECC, has described the measures, as the "*most significant reform of our electricity market for 30 years.*"

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## Break Clauses And Vacant Possession

Tenants operating break clauses need to be absolutely punctilious about observing the requirements of the clause; this is not an area of the law where they can expect much help from the courts. The Court of Appeal's decision in *NYK Logistics (UK) Limited v Ibrend Estates BV [2011] EWCA Civ 683* underlines this, while shedding some useful light on what is meant by 'vacant possession'. In this case, actions on the part of the tenant which the Court acknowledged to be sensible and reasonable, and which were of benefit to both parties, nevertheless prevented the operation of the break, and so cost the tenant in excess of £200,000 in additional rent.

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## Potential Unintended Consequences of E-mail Correspondence

You may recall the recent case of *Golden Ocean Group Ltd v Salgaocar Mining Industries PVT Ltd [2011] EWHC 56 (Comm)* in which it was argued that a valid guarantee had been given as a result of a chain of emails exchanged between two parties. At a preliminary hearing it was held that there was an arguable case that a guarantee existed as the requirements of the Statute of Frauds 1677 had been met (emails constituted "writing" and the electronic signature on the emails was sufficient to show that the written guarantee had been signed for or on behalf of the guarantor). The case will now go to full trial.

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### UNIQUE APPROACH

As one of the UK's leading consultants in the transport sector, iTransport Planning provides *integrated, individual, sustainable and innovative* Transport Planning solutions. We are leading the way in supporting developers, landowners, property owners, town planners, property agents and project managers with a comprehensive service that delivers far-sighted transport planning solutions.



### PLAN & DESIGN

We plan and develop *sustainable* transport solutions to ensure that our advice *improves* and *sustains* the quality of people's lives in the *built, natural, economic* and *social* environment. We resolve transport problems through the design and applications of *innovative* technical and engineering solutions.



### ENABLE

We work with our clients to ensure that our in-depth experience & expertise in Development & Regeneration directly benefits the project so that risks & costs are *minimised*, savings & innovation are *optimised*, and progress is *expedited*. What we learned in 25 years of *global* experience will directly *benefit* our clients and their projects.

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