Index

A

Access and benefit sharing - see Indigenous peoples

B

Beeliar Wetlands (WA)

law & social justice research, 163-175 conclusion, 175 incorporating justice research, 174-175 law & justice research, 175 procedural fairness & published policy, 171-173 relevant background legal concepts, 170-171 Save Beeliar Wetlands (Inc) v Jacob, 163-170

Biodiversity

community engagement in protection, 383-397 citizen engagement as weakest link, 386-389 communication & outreach activities, 390-391 discussion, 395-397 equipment to meet engagement challenge, 389 identified threats to Australia's biodiversity, 385-386 institutional promotion of innovation, 394-395 non-use of social science, 393-394 other engagement, 391-392

Book review

Glazewski, J & S Esterhuyse, Hydraulic Fracturing in the Karoo: Critical Legal and Environmental Perspectives, 459-463

Brown Mountain case - see Forest management

 \mathbf{C}

Carbon claims

China, 446-458 conclusions, 458 environmental law & policy, 448-450 international integration of reforms, 455-457 market-based environmental reforms, 450-455

Carbon credits - see Carbon claims

Carbon rights

Australian approach to allocation, 372-373 Indonesian approach to allocation, 373-378

```
Carbon tax
 repeal, 71-72
CEFC - see Clean Energy Finance Corp
China
 carbon claims - see Carbon claims
Clean Energy Finance Corp (CEFC), 73-75
Cliefden Caves (NSW) - see Geoheritage protection
Climate change
 coastal protection & management – see Coastal protection and management
 endangered species - see Endangered species
 litigation (Australia)
    science and, 470-471, 475-487
       Australian coalmine litigation, 476-481
       interpreting & applying climate science, 479
       limitations of environmental law, 480-481
       Scope 3 emissions, decision-making & substitution argument, 477-479
       conclusion, 487
       options to bring climate science into courtroom, 481-487
       defence of necessity, 485-487
       public trust and civil & constitutional rights, 483-485
       tort, 482-483
Coal industry
 science & climate change litigation, 470-471, 475-487
Coastal protection and management
 climate change
    statutory directives, 398-417
       conclusion, 416-417
       decision-making, 399-402
       requirements regarding subjective conditions precedent, 401-402
       requirements to comply with procedural requirements, 400-401
       requirements to consider relevant matters, 399-400
       decision-making in climate change & coastal hazard context, 402-408
       conclusion, 407-408
       New South Wales, 403-406
       Queensland, 406-407
       South Australia, 402-403
       relevance to assessment of negligence liability, 408-416
       direct influence on duty of care & breach, 411-416
       indirect influence on duty of care & breach, 408-411
 Western Australia
    law, social justice research & Beeliar Wetlands, 163-175
       conclusion, 175
       incorporating justice research, 174-175
       law & justice research, 175
       procedural fairness & published policy, 171-173
       relevant background legal concepts, 170-171
```

588 (2017) 34 EPLJ 587

Save Beeliar Wetlands (Inc) v Jacob, 163-170

Coastal protection and management – continued

```
climate change – continued
planning for erosion & inundation, 142-161
conclusion, 161
discussion & research questions, 158-161
findings of investigation, 148-158
interviews with local planners, 147
theoretical framework, 144-147
```

Collaborative environmental governance

farmers & voluntary stewardship in rural Australia, 271-298 collaborative governance of the rural environment, 274-294 empirical evaluation needed, 294-298 environmental context, 272-274

Community engagement

biodiversity protection – *see* **Biodiversity** charters – *see* **Land-use planning**

D

Duty of care

```
general environmental, 198-208
conclusion, 208
other issues, 206-208
policy literature on environmental duty of care, 199-203
Queensland, 204
South Australia, 203-204
statutory provisions, 204-206
```

 \mathbf{E}

Ecologically sustainable development (ESD)

```
decision-making – see Environmental impact assessment forest management – see Forest management principles, 236
```

Economics – see Supply-side climate policies

Ecuador

Yasuní-ITT Initiative – see Supply-side climate policies

Education - see Legal education

Electricity system

resilience - see Resilience

Emissions trading

```
international scheme, 3-23
approaches to characterising emission entitlements in compliance markets, 11-16
denial of proprietary character, 12-15
silence as to legal character, 15-16
limitiations of current approaches to characterising emission entitlements, 16-21
methods of implementing specification regime, 8-11
moving towards international trading system, 21-23
rights & emission entitlements, 6-8
role of emission entitlements, 4-6
```

Endangered species

```
legislation
   rethinking in context of climate change, 94-112
      conclusion, 111-112
      legal prohibitions & permits, 104-107
      combining processes & outcomes, 107
      reforms to non-operative provisions, 106-107
      reforms to operative provisions, 105
      listing species & habitats, 99-104
      reductionist or holistic, 100-103
      static or responsive, 103-104
      obligations to manage, 107-111
      managing for resilience & adaptive capacity, 109-111
      mitigating climate change, 108-109
      theories of economic management & law, 97-99
      adaptive & resilience-based governance, 98
      social-ecological systems theory, 97
```

Energy

resilience - see Resilience

Environmental duty of care – see Duty of care

Environmental education - see Legal education

Environmental impact assessment (EIA)

theory & practice, 98-99

```
decision-making, 179-197
cumulative contributions to reduced resilience, 191-196
EIA system under EPBC Act, 180-183
future for EIA law, 96-197
shifts in energy landscape, 183-191
```

Environmental water managers - see Water management

Erosion

coastal protection & management - see Coastal protection and management

F

Farmers

collaborative environmental governance – see Collaborative environmental governance

Fire

forest management - see Forest management

Forest management – see also Carbon rights; Reducing Emissions from Deforestation (and Degradation) (RED(D))

```
Australian State clearing controls, 361-363
Indonesia
   fire management
      REDD+ initiative, 251-267
      conclusion, 266-267
      drivers of peatland & forest fires, 254-255
      implementation
        early progress, 256-260
        recent measures, 260-266
      international framework, 252-254
   forest permit system, 363-364
Victoria
   Brown Mountain case, 113-141
      conclusions, 141
      discussion, 115-115
      implications for ESFM, 128-141
      facts & arguments, 113-115
   regulatory theory & modality, 209-237
      conservation of biodiversity, 236-237
      form of regulation designed to achieve sustainability, 209-217
      principles of ecologically sustainable development, 236
      regulation models for effective ESFM, 229-235
      regulatory accountability & legitimacy, 220-224
      regulatory enforcement & compliance, 217-220
      supranational sustainability regulation, 224-228
   sustainability & regulatory theory, 35-38
      conclusions & recommendations, 57
      glossary, 57-58
      ecologically sustainable forest management (ESFM), 38-41
      regulating for sustainability & ESFM in public forestry, 41-52
      regulating for sustainability & ESFM in private forestry, 52-56
      regulatory theory applied to resource management, 35-38
```

Fracking - see Gas

Frontiers in Environmental Law Colloquium

```
history, 469-470
special issue (2017), 470-474
```

 \mathbf{G}

Gas

fracking

Karoo Basin, South Africa (book review), 459-463

General environmental duty of care - see Duty of care

Genetic resources

indigenous – see Indigenous peoples

Geoheritage protection

Cliefden Caves, NSW, 317-337 conclusion, 337 Cranky Rock Dam proposal, 324-326 geodiversity & geoheritage, 319-320 geoheritage protection in Tasmania, 334-337 history & significance of Caves, 320-324 protection of Caves geoheritage under law, 326-333

H

Hydraulic fracturing - see Gas

I

Indigenous peoples

genetic resources (Northern Australia), 476, 560-579
access & benefit sharing consent provisions, 565-576
Commonwealth, 568-571
Kakadu plum experience, 575-576
Northern Territory, 571-572
Queensland, 573-574
Western Australia, 574-575
international developments impacting Australia's access & benefit sharing, 576-578
land tenure, 562-565

Indonesia

approach to allocation of carbon rights, 373-378 forest fire management – *see* **Fire management** forest permit system, 363-364

Infrastructure

resilience - see Resilience

Innovation

biodiversity, 394-395

Inundation

coastal protection & management - see Coastal protection and management

K

Kakadu plum

access & benefit sharing experience, 575-576

 \mathbf{L}

Land-use planning

community engagement charters (SA), 436-445 Community Engagement Charters, 440 conclusion, 444-445 engagement of community, 443-444 planning reforms, 437-440 proposal, 440-443

Legal education

```
innovative environmental teaching
place-based teaching, 472-473, 522-541
assessment of place-based blogging, 534-538
place, space & law, 523-526
place-based law teaching, 526-529
resource management & natural resources law at Victoria University of Wellington (case study), 532-534
theory & practice: field trips & place-based blogging, 529-532
Sustainability Business Clinic (Melbourne), 473, 542-559
conclusion, 558-559
environmental law clinics, 553-557
expanding field of "environmental law", 543-546
new environmenal law for new environmentalism, 546-548
researching the Sustainability Business Clinic, 557-558
trends in legal education & sustainability education, 548-553
```

Litigation

climate change – see Climate change

M

Market-based environmental reforms

China, 450-455

N

Negligence

```
coastal protection & management – see Coastal protection and management duty of care – see Duty of care
```

New South Wales

```
geoheritage protection – see Geoheritage protection
public interest litigation – see Public interest litigation
solar energy – see Solar energy
```

New Zealand

nuclear power generation, 25-27

Nuclear fuel cycle

commissions & inquiries, 24-34
Australia, 27-28
Australian examples, 28-30
conclusion, 33-34
nuclear power generation in UK and NZ, 25-27
South Australian Nuclear Fuel Cycle Royal Commission, 30-33

P

Performance-based planning – see Planning (Queensland)

Place-based teaching - see Legal education

Planning (Queensland)

performance-based planning, 238-250 definition of performance-based planning, 239 desired environmental outcomes & measures, 243-245 implementation, 239-241 land use plan, strategic plan or business plan, 249-250 Planning Act 2016, 247-249 prohibition on prohibitions, 241-243 "sufficient grounds" test, 245-247

Procedural fairness

published policy and, 171-173

Public interest litigation

smart & unsmart regulation (NSW), 299-316 conflicting policies & unsmart regulation, 310-315 conclusion, 315-316 public interest litigation, 306-310 smart regulation & planning laws, 301-305

R

Reducing Emissions from Deforestation (and Degradation) (RED(D))

Indonesia – see Forest management

Paris Agreement, 353-379
conclusion, 378-379
direct regulation, 359-371
incentivising change: carbon rights, 371-378

reducing deforestation, 355-359

Renewable energy – see also Solar energy Australian policy, 69-76 "carbon tax" repeal, 71-72 Clean Energy Finance Corp (CEFC), 73-75 conclusion, 75-76 current scene, 69-70 investment, 70-71 target, 72-73 Resilience endangered species - see Endangered species energy infrastructure regulation, 471, 488-502 barriers to achieving resilience in electricity system, 501-502 conceptualising "resilience", 483-493 electricity sector, 493-496 embedding infrastructure resilience in law, 496-501 environmental impact assessment - see Environmental impact assessment **Risk-based regulation** Western Australia Department of Environment Regulation (DER) reforms, 59-68 DER's risk-based approach, 64-68 acceptability, 64-65 conditions & incentives, 66-67 cumulative impacts, 67-68 transparency, 654 environment regulation reforms in Australia, 62 implementation, 52-64 regulation reforms, 59-61 defining risk-based regulation, 61 Rural land collaborative environmental governance – see Collaborative environmental governance S Science climate change - see Climate change Smart regulation - see Public interest litigation Social justice research Western Australia – see Coastal protection and management Social science non-use in biodiversity, 393-394 Solar energy

(2017) 34 EPLJ 587 595

localisation of sustainable energy generation (NSW), 418-435

operative legislative provisions, 425-426

law & small-scale renewable energy, 423-434 efficiency of regime, 426-430

conclusion, 434-435

Solar energy – *continued* localisation of sustainable energy generation (NSW) - continued law & small-scale renewable energy - continued regulatory role, 423-425 solar pv systems & heritage, 430-434 renewable energy & future, 420-423 Australia's profile internationally compared, 420-422 predicting future, 422-423 South Africa fracking in Karoo Basin (book review), 459-463 South Australia community engagement charters - see Land-use planning Nuclear Fuel Cycle Royal Commission, 30-33 directives – see Coastal protection and management Stewardship voluntary – see Voluntary stewardship Substitution - see Climate change Supply-side climate policies Yasuní-ITT Initiative, 79-93 conclusion, 92-93 design flaws, 89-92 foreign aid & other direct transfers, 87-89 international climate regime, 82-87 consistency with Clean Development Mechanism (CDM) rules, 83-84 consistency with principles of carbon offsetting, 84-87 overview of Ecuadorian Initiative, 81-82 Sustainability development - see Ecologically sustainable development Sustainability Business Clinic - see Legal education Sustainable energy - see Solar energy T **Tasmania** geoheritage protection, 334-337 Teaching - see Legal education Threatened species – see Endangered species

Trading – see Emissions trading

U

United Kingdom

nuclear power generation, 25-27

Unsmart regulation – see Public interest litigation

 \mathbf{V}

Victoria

forest management – *see* **Forest management** Victorian Environmental Water Holder (VEWH), 505-506

Voluntary stewardship

collaborative environmental governance – see Collaborative environmental governance

W

Water management

environmental water managers (EWMs), 471-472, 503-521 competition & collaboration, 511-517
Columbia Basin & Colorado, 514-517
South-eastern Australia, 511-514
legal personhood for the environment, 507-508
legal rights for nature, 504-505, 520-521
powers & limits, 509-510
regulatory response, 517-519
paradox of EWMs, 519
South-eastern Australia, 518-519
Western US, 517-518
"speaking" for the river, 510-511
Victorian Environmental Water Holder (VEWH), 505-506

Western Australia

Department of Environment Regulation risk-based regulation reforms – *see* **Risk-based regulation**

Y

Yasuní-ITT Initiative – see Supply-side climate policies