

# ENVIRONMENTAL AND PLANNING LAW JOURNAL

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## CURRENT TOPICS

### BEING GREEN - CHARITABLE OR POLITICAL?

**Leonie Thompson and Michael Kerr**

When is being green considered to be charitable and when is it political? This and other questions were recently considered by the Victorian Civil and Administrative Tribunal in an important test case for environmental organisations and the wider charities sector. The Tribunal decided that the Australian Conservation Foundation Inc (ACF) was exempt from the requirement to pay payroll tax under the *Payroll Tax Act 1971* (Vic) because it is a “charitable body” within the meaning of s 10(1)(bb) of that Act. The Tribunal’s decision varied an earlier decision of the Commissioner of the Victorian State Revenue Office which refused to recognise the ACF’s charitable status, finding that its activities were predominantly political ..... 7

### QUIET ACHIEVEMENTS ...

**Gillian Walker**

The High Court’s decision in *Morrison v Peacock* [2002] HCA 44 (9 October 2002) did not make the front pages of the nation’s newspapers. It was not cause for discussion over lunch in the legal district of Australia’s major cities. Even the most avid High Court watchers probably gave it little attention. Indeed, at less than 10 pages in length, *Morrison v Peacock* will most likely be acclaimed only by those suffering students and practitioners who take great delight in finding a succinct, unanimous judgment of the High Court in amongst its more weighty judicial companions. In its own quiet way, however, this decision puts shipping owners and operators around the world on notice that failing to properly maintain one’s ship and its equipment will not be an acceptable excuse when faulty equipment causes oil pollution..... 12

## ARTICLES

### ENERGY EFFICIENCY IN ROAD TRANSPORT AFTER THE WSSD: AN EVOLVING AREA OF ENVIRONMENTAL LAW

**Adrian J Bradbrook**

The recent World Summit on Sustainable Development (WSSD) has given a strong impetus to the need to improve energy efficiency, with the transport sector singled out as the sector of the economy with the most potential for efficiency gains. This article provides a comprehensive list of future policy options to improve motor vehicle fuel efficiency, grouped under four headings: planning and development laws, laws regulating the motor vehicle industry, fiscal incentives and laws promoting alternative fuels. If implemented, these changes would give flesh to the calls for action demanded in the Johannesburg Plan of Implementation. The article explains recent developments in this field at the United Nations Economic and Social Commission for Asia and the Pacific to implement the WSSD-promoted reforms in our region ..... 16

### THE SOUTH AUSTRALIAN AQUACULTURE ACT 2001

**Bernard Walrut**

In late November 2001, the South Australian Parliament passed *the Aquaculture Act 2001*, the first to be adopted in Australia. While the legislation is recognition of the significant role that aquaculture now plays in South Australia, it is disappointing that its scope is so narrow. The expressed objects of the Act are threefold: to promote ecologically sustainable development of aquaculture, to maximise the benefits to the community from the aquaculture resources of the State and otherwise to ensure efficient and effective regulation of the aquaculture industry. This article reviews the new legislation and describes many of its more significant elements, including the scope of the definition of aquaculture, the interaction with other Acts, the making of aquaculture policies, the principal policy instruments under the legislation, the leasing of State waters and the more general control of aquaculturists through a licensing system ..... 30

### THE EVOLUTION OF A SUSTAINABILITY ASSESSMENT FOR WESTERN AUSTRALIA

**Professor Bryan Jenkins, Dr David Annandale and Dr Angus Morrison-Saunders**

The Western Australian government has committed itself to developing a sustainability assessment process for projects, plans, policies and programs, as well as legislation, Cabinet submissions, corporate plans and proposed government agreements. This article briefly reviews some of the challenges posed by sustainability assessment. It then presents an integrated approach for a process that could be implemented in Western Australia with minimal amendment to existing legislation and administrative bodies ..... 56

## INTEGRATION OF NATURAL RESOURCES MANAGEMENT UNDER QUEENSLAND MINING LEGISLATION

### **Bill Ellis**

Recent advances made by the States in moving towards integrated Acts that address the inter-related nature of environmental issues, should be measured against regulatory issues that hinder progress and licensing standards that do not always reflect principles of environmentally sustainable development. The structures put in place in Queensland under the *Environmental Protection and Other Legislation Amendment Act 2000* offer new tools for environmental management of the mining industry that should have beneficial impacts on environment protection in that State .....66