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ARTICLES

Swirls in the stream of Australian environmental law: Debate on the EPBC Act – *Chris McGrath*

Constructive debate on important topics of public interest, such as environmental law, is always healthy. Two recent publications have criticised Australia's marine protection laws and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) and have called for major reforms in these areas. This article comments on the issues raised by these publications regarding the constitutional validity of the EPBC Act and its effectiveness. It suggests that there is no question the EPBC Act is constitutionally valid and that it is making an important contribution to Australian environmental law. The gains that have been made under it should not be thrown away in any reform process. 165

A clone with your fries? The regulation of cloned farm animals in Australia – *Karinne Ludlow*

The cloning of farm animals is occurring in Australia and is raising significant concerns regarding both the cloning and sale of food products from clones. Concerns include: the health risks to clones and other animals involved in the procedure; any adverse impact on the genetic diversity of the species involved; the exploitation of animals; and the safety for consumers of their food products. Nevertheless, Australia has chosen not to prohibit animal cloning, nor is there legislation specifically regulating animal cloning or the sale of their products. This article considers the law's current response to farm animal cloning and the sale of their food products in Australia and whether that response adequately addresses the main concerns arising from such activities. It concludes that at least one important concern, possible effects on genetic diversity in livestock, is not being adequately addressed. 185

Environmental water allocations in Australia – *Alex Gardner*

Australian policy and law on environmental water allocation have come a long way since the Council of Australian Governments agreed on a framework for water reform in 1994. The 2004 Council of Australian Governments' *Intergovernmental Agreement on a National Water Initiative* (NWI) has given significant impetus for further development across the coming decade, defining principles that are being addressed in legislative reforms to varying extents in different States. This article distils the national policy principles on environmental water allocation and reviews the law of three States, New South Wales, Victoria and Western Australia, to ascertain the legal enforceability of environmental water allocations. It argues, in particular, that their enforceability is dependent on the key NWI proposition that a water access entitlement for consumptive use is only a right to a share of the consumptive pool of water available in a resource from year to year and not a right to take a fixed maximum volume. 208

Biotechnology risk assessment in Australia: A molecular perspective – Sharon Fox,
Angus Morrison-Saunders and Dianne Katscherian

Biotechnology, especially the development of genetically modified crops, offers many potential economic, nutritional and environmental benefits, but equally many potential hazards and risks. Approval procedures for the release of genetically modified organisms are established under the *Gene Technology Act 2000* (Cth). This article examines the methodology used to identify potential molecular risks associated with the use of biotechnology in food crop production. Evidence is presented which demonstrates the potential for molecular hazards to occur and brings into question the ability of risk assessment methods to identify these hazards. Despite appropriate regulations being in place, it appears that current hazard analysis procedures are not of sufficient sensitivity to ensure adequate protection for the Australian people and environment. 236