

ENVIRONMENTAL AND PLANNING LAW JOURNAL

Volume 24, Number 2

March 2007

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ARTICLES

The role of climate change litigation in Australia's response to global warming – *Jacqueline Peel*

A series of recent cases, including the judgment of the New South Wales Land and Environment Court in *Anvil Hill*, signal the rise of climate change litigation in Australia. Climate change litigation involves legal action to seek redress for damage arising from activities said to be causing global climate change. The growth of climate change litigation has been particularly pronounced in the United States, due to perceived inaction by national political authorities to deal with issues of global warming. In Australia, frustration with the slow pace and fragmented nature of regulatory developments regarding climate change similarly appears to be encouraging environmental groups to turn to the courts as a possible saviour. This article argues that while there are positive indications in some climate change cases that the courts are prepared to embrace rigorous practices of EIA for assessing climate change impacts, climate change litigation is unlikely to be a panacea for delivering effective action on the reduction of greenhouse gas emissions. Rather, a strong national-level regulatory response is still required to generate the necessary behavioural change for deep cuts in emissions.

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Reconciling the international and United States approaches to civil liability for oil pollution damage – *Stathis Palassis*

During the last 50 years we have witnessed the accelerated degradation of many parts of the planet's marine environment. Even though the duty to protect the marine environment is well-founded in principles of international law, and many successful international regimes have been created to manage and reduce pollution from all sources, vessel-source pollution, particularly that from oil, is still controversial. The purpose of this article is to highlight the major deficiencies of the international and United States approaches in regulating the maritime transport of oil, in search of possible reconciliation between the two. Unlimited liability and indefinite protocols for damage assessment under American legislation are the two technical digressions from the international legal regime that have caused the most controversy, beyond the controversy surrounding unilateralism. Prevention also has been greatly overlooked. It is concluded that to better protect the marine environment from oil pollution a more prevention-focused cooperative international effort is required to balance the interests of all states and stakeholders, in preference to a unilateral move reflecting the disproportionate local influence of a limited class of stakeholders.

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Neighbourhood environment improvement plans: Community empowerment, voluntary collaboration and legislative design – *Neil Gunningham, Cameron Holley and Clifford Shearing*

This article examines a bold and imaginative experiment in facilitative regulation: the Neighbourhood Environment Improvement Plan (NEIP). It explores the NEIP's regulatory objectives and techniques, connecting them to similar approaches and trends discussed in the regulatory literature, before outlining the NEIP's achievements, limitations and challenges. It is argued that although NEIPs have the potential to provide an innovative and much needed tool to address complex second generation environmental problems, they suffer from a number of design flaws concerning how they engage stakeholders, facilitate community-based decision-making and resource their operation and implementation. Recommendations are made as to how these problems might be overcome. Theoretical implications are identified in the final part of the article.

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Tel: (02) 8587 7000 Fax: (02) 8587 7100



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ISSN 0813-300X

Typeset by Lawbook Co., Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW