

ENVIRONMENTAL AND PLANNING LAW JOURNAL

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EDITORIAL COMMENTARY

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ARTICLES

Climate change and corporate social responsibility: The intersection of corporate and environmental law – Karen Bubna-Litic

In 2006, a Parliamentary inquiry and an inquiry from the Corporations and Markets Advisory Committee both investigated whether corporate law in Australia needed to be changed in order to encourage socially and environmentally responsible business practices and whether the scope of director's duties should be widened to take into account the interests of stakeholders and the wider community. The results of these enquiries – a 'business as usual' approach, highlights the gap between the traditional corporate law view of short term shareholders' interests and the longer term view posited by environmental law. This paper argues that in order to achieve better corporate responsibility, there needs to be a focus on the intersections rather than the gaps between these two disciplines of law. Drawing on various sources, such as the author's earlier research on Norwegian companies and the opportunities and risks associated with climate change, the paper discusses some of these intersections and suggests the incentives that may help to move companies towards more positive environmental outcomes. 253

Chasing down the climate change footprint of the private and public sectors: Forces converge – Rosemary Lyster

This article analyses four converging forces which are requiring the private and public sectors to radically address their climate change footprints. These forces include: an emerging body of "climate law" which aims to achieve deep cuts in greenhouse gas emissions; an increasing tendency, observable in both the United States and Australia, to bring public and private law climate change actions before courts and administrative tribunals; corporate governance obligations which arguably include duties to effectively manage the climate change risk profile of corporations; and voluntary, or self-regulation, mechanisms such as corporate social responsibility (CSR). Part II of this article, to be published in the December issue of this journal, will analyse and review the various emissions trading schemes around the world. It is argued that these forces are placing an ever stringent net of responsibility around the activities of the private and public sectors, in an effort to correct what Sir Nicholas Stern has referred to as "the greatest and widest-ranging market failure ever seen." 281

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Editorial inquiries:
Tel: (02) 8587 7000

HEAD OFFICE
100 Harris Street PYRMONT NSW 2009
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