Index

Vol No 24 Parts No 1-6, 2007

Alternative dispute resolution

```
Current standards, 348-349
good faith, 346-360
application & enforceability, 357-358
environmental conscience & public interest, 351-352
environmental stakeholders, 359
expansion & future role, 353
interpretation, 349-351
jurisprudential interpretation, 352-353
objective points of reference, 353-354
scope of ADR model, 356-357
subjective points of reference, 354-356
```

Animal welfare law

```
introduced wild animals, 417-426
animal protection provisions, 419-421
codes of practice & standard operating procedures, 420-421
community attitudes, 423-425
impact on non-target species, 423
legal acts of cruelty, 421-423
progress towards more humane system, 425-426
terminology, 419
```

Asian Elephants Case - see Endangered species

Biobanking

```
Environment Protection and Biodiversity Conservation Act 1999 (Cth), 17-34 biodiversity offsets banking, 18-24 advantages & dangers of bio-offsets, 19-22 concept of bio-offsets and BOBs, 18-19 overseas bio-offset schemes, 22 State-based bio-offset schemes, 23-24 formalising offset scheme, 24-34 Commonwealth environmental regulation, 24 current structures, 27-29 hypothetical case study, 31-34 informal practice, 24-27 proposed structure, 29-31 summary of arguments for, 24 native vegetation clearance (NSW) – see Land clearing (NSW)
```

```
Biodiversity
 offsets schemes - see Biobanking
Bio-offsets schemes - see Biobanking
Carbon emissions - see Greenhouse gases
Carbon trading - see Coal mining
Climate change - see also Greenhouse gases
 Australian developments
    government action, 92-96
        national-level initiatives, 92-94
        State action, 94-96
    national leadership, 103
 Australian litigation, 90-105
     Anvil Hill case, 98-101
    Hazelwood case, 97-98
     Wildlife Whitsunday case, 101-103
 corporate social responsibility - see Corporate environmental responsibilities
 development authorities' liability for impacts, 405-416
     legal & policy framework for adaptive planning, 409-411
     legal risks of maladaptive behaviour & inaction, 411-415
        actions in negligence, 412-414
        alternative claim in nuisance, 414-415
        payment, 415
 Great Barrier Reef - see Great Barrier Reef
 private & public sector footprints, 281-321, 450-479 - see also Emissions trading
    "climate law" – see Greenhouse gases
    corporate governance – see Corporate environmental responsibilities
     litigation, 300-309
        Australia, 304-309
        United States, 301-304
    policy context, 282-284
        Intergovernmental Panel on Climate Change (4th Assessment Report, 2007), 282-284
        Stern Review Report, 282
Coal industry
 greenhouse gases (Qld), 232-235
 mitigation options, 361-381
    emissions trading
        establishment of system in Australia, 369-371
```

international climate market, 364-366

operation of overseas markets, 366-368

legal issues in implementing offsets projects, 371-379

governance under international climate change regime, 362-364

Coal industry - continued

technological modifications to coal-fired electricity plants, 379-380

Convention for the Safeguarding of the Intangible Cultural Heritage, 198-209

Convention on International Trade in Endangered Species of Wild Fauna and Flora – see Endangered species

Corporate environmental responsibilities

```
climate change, 253-280
   Australia, 257-276
      CAMAC report, 260-261
      corporate disclosure, 269-276
      directors' duties, 264-269
      history & approaches, 258-260
      stakeholders, 262-264
   case study, 278-280
   corporate governance, 309-313
      directors' duties, 309-310
      reporting on breaches of environmental law in Australia, 310
      reporting on future prospects of corporation, 310-311
      specific recommendations, 311-313
   incentives for responsible practice, 276-278
greenhouse gas emissions & social responsibility, 313-321
   directors' legal duty, 314
   environmental management system, 320-321
   institutional investment, 314-316
   risk profile publicly available, 316-320
```

Cultural heritage management - see Convention for the Safeguarding of the Intangible Cultural Heritage

Decision-making

development authorities' liability for climate change impacts, 405-416

Development

authorities' liability for climate change impacts, 405-416

Elephants - see Endangered species

Emissions trading – see also Coal industry

```
schemes, 450-479
carbon funds, 476-478
complexities of designing, 454-469
```

```
Emissions trading - continued
        allocation of permits, 459-461
           Australia, 460-461
           EU, 459-460
           NZ, 460
           UK, 460
           US, 460
       cap, 456
       coverage of greenhouse emissions, 456-457
       flexibility: borrowing, banking & early abatement, 462
           abatement incentives before Australian Emissions Trading Scheme, 463
       long term reduction target, 454-456
       offset types, 463-465
       penalties & "make good" provisions, 466
       repeal of other emission reduction measures, 467-469
           consequences of not smoothing transition, 468-469
       reporting, allowance tracking & public access, 465-466
       upstream, downstream & hybrid approaches, 457
           Australia, 458
           EU ETS, 457-458
           NZ, 458
           UK, 458
           US, 458
    derivatives market, 474-476
    international consensus, 452-454
    Kyoto Protocol, 451-452
    linking, 469-471
    voluntary, 471-472
    world carbon market, 472-446
Endangered species
 Asian Elephants case, 329-345
 Environment Protection and Biodiversity Conservation Act 1999 (Cth)
    permits for export & import of animals, 329-330
       Asian Elephants case, 331-334
       conduct regulated, 334-336
       purposes of importer, 336-344
       regulatory failure, 344-345
       scope of power to issue import permit, 330-331
Environment Improvement Plans (Victoria)
 neighbourhood – see Neighbourhood environment improvement plans (NEIP)
Environmental planning
```

greenhouse gases - see Greenhouse gases

Environmental protection

greenhouse gases - see Greenhouse gases

Environmental protection (Commonwealth)

Environment Protection and Biodiversity Conservation Act 1999 (Cth) acquisition of property on just terms, 81-84 biobanking – see Biobanking bio-offsets schemes – see Biobanking endangered species – see Endangered species failure of, 84-86 Greentree case – see Minister for the Environment & Heritage v Greentree independent administering body, proposals, 88-89 reform, 81-89 s 130(1B) notices, 86-87 zoning reforms, 87-88

Expropriation - see Property rights

Genetically modified crops

New Zealand regulation, 157-160 regulation under *Gene Technology Act 2000* (Cth), 157-160

Global warming - see Climate change

Good faith - see Alternative dispute resolution

Great Barrier Reef

climate change targets, 182-197
Australian policy, 187-190
effectiveness, 194-196
greenhouse gas concentrations, 182-184
policies, 190-191
threat to Reef, 185-187
voluntary policy measures & research, 192-194

Greenhouse gases - see also Climate change

corporate responsibilities – see Corporate environmental responsibilities emissions regulation

Australian environmental legislation, 210-236

environmental planning legislation, 211-217

environmental protection legislation, 217-226

judicial responses, 226-235

coal mining in central Queensland, 232-235

Hunter Valley case, 228-232

```
Greenhouse gases - continued
          Latrobe case, 226-228
    "climate law", 284-299
       definition, 284-285
       direct regulation, 285-298
           Australia, 286-289
          British Columbia, 296
          China, 296-298
          Europe, 289-291
          United Kingdom, 291-293
          United States, 293-296
       post-Kyoto, 298-299
    Great Barrier Reef - see Great Barrier Reef
 United Kingdom
    carbon emissions legislation, 249-252
 United States
    Massachusetts v EPA, 241-249
```

Greentree case – see Minister for the Environment & Heritage v Greentree

Intangible heritage – see Convention for the Safeguarding of the Intangible Cultural Heritage

International environmental law and agreements

```
litigation, 35-58
limitations of private international law, 49-57
access, threshold jurisdictional issues, 49-53
choice of law, 53-56
recognition & enforcement of judgments, 56-57
private international law, 37-49
choice of law, 46-49
forum non conveniens, 39-46
jurisdiction, 38
```

International Union for the Conservation of Nature and Natural Resources - see IUCN

Introduced animals - see Animal welfare law

IUCN: The World Conservation Union

```
Commission on Environmental Law (CEL) in Oceania, 14-16 invitation to new members, 15-16 lawyers working region, 15 network, 14-15 objective & progress to date, 14 scoping study, 15
```

Kyoto Protocol to the United Nations Framework Convention on Climate Change (1997)

emissions trading schemes, 451-452

Land clearing (NSW)

```
biodiversity offsets, 427-449
rural areas, 429-432
environmental outcomes assessment methodology, 430-431
urban areas, 432-447
biodiversity certification of environmental planning instruments, 444-447
concurrence conditions, 440
development bias, 434-436
environmental impact, 432-434
flexible planning for major projects under Pt 3A, 436-438
planning agreements, 440
s 94 conditions, 438-440
```

Land clearing (Queensland)

```
broadscale clearing ends, 5-13
exceptions from clearing prohibition, 12
greenhouse emissions, 7-8
major reduction in rate, 6-7
nature conservation, 7
vegetation management
changes in laws (1997–2003), 9
comprehensive mapping of remnant vegetation, 10-11
historical lack of regulation, 8-9
major reforms (2004), 9-10
```

Marine pollution

```
oil - see Oil pollution
```

Minister for the Environment & Heritage v Greentree

```
regulatory failure, 87
```

Motor vehicles

```
emissions controls, 382-399
leapfrogging & Clean Development Mechanism, 397-398
low-carbon emission vehicles
consumer uptake, 392-394
production, 384-392
reducing vehicle use & ownership, 394-397
```

Native vegetation

clearance - see Land clearing

Neighbourhood environment improvement plans (NEIP), 125-151

```
legal framework, 131-134
objectives, 128-131
origins, 127-128
practice, 135-145
recommendations, 145-151
```

NEIP - see Neighbourhood improvement plans

Northern Ireland

environmental regulation as taking of property, 168

Oceania

IUCN – see IUCN

Oil pollution

```
international law, 106-124
civil liability issues, 113-117
contingency & prevention planning, 117-121, 123
IMO conventions, 107-108
jurisdictional issues, 110-113
reconciling with US approaches, 121-123
US civil liability regime, 108-110
reconciling with international approaches, 121-123
```

Pacific Islands

IUCN - see IUCN

Pest animals - see Animal welfare law

Pollution control

oil - see Oil pollution

Private international law - see International environmental law and agreements

Property rights

```
environmental regulation as taking of property, 161-181 common law doctrine, 166-168 common law "takings", 178-180
```

Property rights - continued

compensable takings of property, 175-178 compensation for regulatory impositions, 163-165 expropriation, 168-170 meaning of "property", 170-172 meaning of "taking", 172-175 Northern Ireland, 168 origins of takings law, 161-162 regulatory intervention, 162-163 statutory construction, 165-166

South Pacific

IUCN - see IUCN

Takings - see Property rights

Transnational environmental law and policy - see International environmental law and agreements

United Kingdom

carbon emissions reduction legislation, 249-252 greenhouse gases – *see* **Greenhouse gases**

United States environmental law

climate change

Massachusetts v EPA, 11.276-278

greenhouse gases – see Greenhouse gases

Victoria

neighbourhood environment improvement plans – see Neighbourhood environment improvement plans

Wildlife - see Animal welfare law

Words and phrases

property, 170-172 taking, 172-175

World Conservation Union - see IUCN: The World Conservation Union

World Heritage Convention

implementation in Australia, 198-209 Intangible Cultural Heritage Convention and, 199-200