

ENVIRONMENTAL AND PLANNING LAW JOURNAL

Volume 25, Number 4

July 2008

EDITORIAL COMMENTARY

- Electricity privatisation in New South Wales: What are the climate change and broader sustainability implications?** 229

ARTICLES

Regulating greenhouse gas emissions from Australian coal mines – Dr Chris McGrath

This article explores the evolving response to climate change in Australia, focusing on the regulation of greenhouse gas emissions from Australian coal mines. It considers key science and the current regulatory regime as a basis for anticipating likely future trends in the regulatory regime. It concludes that the regulation of direct and indirect emissions is likely to escalate rapidly in the future. One of the major trends is that the legal system will increasingly move to attributing legal liability for climate change based on activities directly or indirectly emitting greenhouse gases without needing to establish a causal link to any specific or discernible environmental impact. Another major trend that can be anticipated is that coal mines will be required to assess direct and indirect emissions. Regulation of emissions from the use of coal mined in Australia remains a live issue. Mandatory requirements for carbon capture and storage of emissions from coal is a logical step for the future regulatory regime. 240

Restorative justice intervention in an environmental law context: *Garrett v Williams*, prosecutions under the Resource Management Act 1991 (NZ), and beyond – Mark Hamilton

This article considers the applicability of restorative justice intervention in the form of restorative justice conferencing to New South Wales environmental law. Although the legislation that confers criminal jurisdiction on the Land and Environment Court of New South Wales does not specifically mention or refer to restorative justice conferencing, it would appear that such conferencing would be one way of achieving the objectives of environmental legislation, and could be considered during sentencing. Guidance can be gained from restorative justice conferencing that has taken place in the New Zealand environmental law context, as well as the seminal decision of Preston CJ in *Garrett v Williams* (2007) 151 LGERA 92 in the New South Wales context. Restorative justice conferencing may serve as the vehicle through which communication between victim and offender is facilitated, leading to better environmental outcomes. 263

Water management and the coal mining industry in New South Wales – Rachael Webb

The Water Management Act 2000 (NSW) has brought about major changes in how water is managed in New South Wales for all water users, including the environment. The New South Wales coal mining industry, a “high value” water user worth \$8.5 billion a year, uses water as a fundamental component of its production process. Two of the most significant impacts on water resources from coal mining are salinity and subsidence. These impacts cannot be managed by the Water Management Act alone and this article argues

that integrated strategic planning through the range of approvals that a coal mine needs in order to operate lawfully, including planning and environmental impact approval, a mining lease and a licence to discharge water, is essential for the effective management of water resources in New South Wales. 272

Finding information about contaminated sites in Australia: There has to be a better way! – *Craig Deegan and Sophia Ji*

This article documents a search process that was undertaken, using publicly available sources, to identify the existence of contaminated sites within Australia. The results reveal that there is an overwhelming lack of publicly available information about Australian contaminated sites, despite the belief that many thousands of contaminated sites are believed to exist within Australia. The results of the research highlight the overwhelming lack of accountability that exists in relation to land-use within Australia, and the authors rely upon the results to make a call for government to take immediate action to address important community rights-to-know. 284

Guidelines for Contributors

Submission and licence agreement instructions

All contributions to the journal are welcome and should be sent, with a signed licence agreement, to the Production Editor, *Environmental and Planning Law Journal*, Lawbook Co., PO Box 3502, Rozelle, NSW 2039 (mail), 100 Harris St, Pyrmont, NSW 2009 (courier) or by email to eplj@thomson.com.au, for forwarding to the Editor. Licence agreements can be downloaded via the internet at http://www.thomson.com.au/support/as_contributors.asp. If you submit your contribution via email, please confirm that you have printed, signed and mailed the licence agreement to the attention of the Production Editor at the mailing address noted above.

Letters to the Editor

By submitting a letter to the editor of this journal for publication, you agree that Thomson Legal & Regulatory Limited, trading as Lawbook Co., may edit and has the right to, and may license third parties to, reproduce in electronic form and communicate the letter.

Manuscript

Manuscript must be original, unpublished work that has not been submitted for publication elsewhere.

Personal details (name, qualifications, position) for publication and a delivery address, email address and phone number must be included with the manuscript.

Manuscript must be submitted electronically via email or on disk in Microsoft Word format.

Manuscript should not exceed 10,000 words for articles or 1,500-2,000 words for section commentary or book reviews. An abstract of 100-150 words is to be submitted with article manuscripts.

Proof pages will be sent to contributors. Authors are responsible for the accuracy of case names, citations and other references. Excessive changes to the text cannot be accommodated.

This journal complies with the Higher Education Research Data Collection (HERDC) Specifications for peer review. Each article is, prior to publication, reviewed in its entirety by a suitably qualified expert who is independent of the author.

Style

1. Levels of headings should be clearly indicated (no more than four levels).

2. Cases:

Case citation follows case name. Where a case is cited in the text, the citation should follow immediately rather than as a footnote. Give at least two and preferably all available citations, the first listed being the authorised reference.

Australian citations should appear in the following order: authorised series; Lawbook Co./ATP series; other company series (ie CCH, Butterworths); media neutral citation. "At" references should only refer to the best available citation, eg: *Mabo v Queensland [No 2]* (1992) 175 CLR 1 at 34; 66 ALJR 408; 107 ALR 1.

Where only a media neutral citation is available, "at" references should be to paragraph, eg: *YG v Minister for Community Services* [2002] NSWCA 247 at [19].

For international cases best references only should be included.

3. Legislation should be cited as follows:

Trade Practices Act 1974 (Cth), s 51AC. The full citation should be repeated in footnotes.

4. Books should be cited as follows:

Macken JJ, O'Grady P, Sappideen C and Warburton G, *The Law of Employment* (5th ed, Lawbook Co., 2002) p 55.

In footnotes do not use *ibid* or *op cit*. The following style is preferred:

4. Austin RP, "Constructive Trusts" in Finn PD (ed), *Essays in Equity* (Law Book Co, 1985).

5. Austin, n 4, p 56.

5. Journals should be cited as follows:

Odgers S, "Police Interrogation: A Decade of Legal Development" (1990) 14 Crim LJ 220.

Wherever possible use official abbreviations not the full name for journal titles.

In footnotes do not use *ibid* or *op cit*. The following style is preferred:

6. Sheehy EA, Stubbs J and Tolmie J, "Defending Battered Women on Trial: The Battered Woman Syndrome and its Limitations" (1992) 16 Crim LJ 220.

7. Sheehy et al, n 6 at 221.

6. Internet references should be cited as follows:

Ricketson S, *The Law of Intellectual Property: Copyright, Designs and Confidential Information* (Lawbook Co., subscription service) at [16.340], <http://subscriber.lawbookco.com.au> viewed 25-June 2002. Underline the URL and include the date the document was viewed.

For further information visit <http://www.thomson.com.au/legal/> or contact the Production Editor.

SUBSCRIPTION INFORMATION

The *Environmental Planning and Law Journal* comprises six parts a year.

Customer service and sales inquiries:
Tel: 1300 304 195 Fax: 1300 304 196
Web: www.thomson.com.au/legal/p_index.asp
Email: LRA.Service@thomson.com

Editorial inquiries:
Tel: (02) 8587 7000

HEAD OFFICE
100 Harris Street PYRMONT NSW 2009
Tel: (02) 8587 7000 Fax: (02) 8587 7100



© Thomson Legal & Regulatory Limited ABN 64 058 914 668 trading as Lawbook Co.

ISSN 0813-300X

Typeset by Lawbook Co., Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW