

ENVIRONMENTAL AND PLANNING LAW JOURNAL

Volume 26, Number 6

November 2009

ARTICLES

The new frontier of climate law: Reducing Emissions from Deforestation (and Degradation) – Rosemary Lyster

This article analyses the efforts of the international community to incorporate activities relating to Reducing Emissions from Deforestation (and Degradation) (RED(D)) within the international legal framework governing climate change. Such activities were first recognised at the Thirteenth Conference of the Parties to the United Nations Framework Convention on Climate Change (COP 13) held in Bali in December 2007. Any agreement on RED(D) at the Fifteenth Conference of the Parties (COP 15) in Copenhagen in December 2009 is likely to be heavily influenced by the Negotiating Text developed by the Ad Hoc Working Group on Long-Term Cooperative Action under the Convention earlier this year. The article also demonstrates how the United States, unlike other jurisdictions, has decided to include RED(D) provisions within the American Clean Energy and Security Act of 2009 prior to the outcomes of COP 15. Various financing approaches to RED(D), including public funding schemes and a market-based RED(D) credits approach, are then assessed before a number of key issues associated with RED(D) activities are addressed. All of these have legal implications. They include: the crucial issue of governance; establishing baselines and national reference levels; the link between monitoring, reporting and verification, and compliance and enforcement; proprietorial rights over the carbon in the world's forests; and legal arrangements for benefit-sharing through Payments for Environmental Services. The article is divided into the following five parts – Part I: Latest scientific evidence and forest sequestration; Part II: The international law framework for RED(D); Part III: The United States moves ahead on RED(D); Part IV: Key RED(D) issues and legal implications; and Part V: Conclusions. 417

Aging gracefully? Examining the conditions for sustaining successful collaboration in environmental law and governance – Cameron Holley

Collaboration is quickly becoming an established paradigm in environmental law and governance. This article examines an important aspect of collaborative processes that remains largely overlooked by empirical researchers: the challenges of sustaining collaboration. Drawing on over 80 interviews, the article explores the maintenance and sustainability of collaboration in practice by empirically examining three of the most innovative collaborative governance “experiments” in Australia: Environment Improvement Plans, Neighbourhood Environment Improvement Plans, and Regional Natural Resource Management. While each case throws up some different issues, a comparison between them provides insights into two common and interrelated challenges for the survival of collaboration – namely, maintaining the involvement of volunteers, and gaining adequate support and funding. Important empirically-based lessons and recommendations are made in the final section of the article with implications for both policy makers and theorists who are concerned with ensuring collaborations can “age gracefully” as an effective “niche” in the environmental law and governance landscape. 457

Green buildings – are codes, standards and targets sufficient drivers of sustainability in New South Wales? – *Amelia Thorpe and Kristy Graham*

With the introduction of the Building and Sustainability Index (BASIX) in 2004, New South Wales became an innovator in both Australian and international efforts to improve building design and sustainability. Today, BASIX continues to be promoted as an effective measure to ensure homes are designed to operate more sustainably, and the government is expanding its standards-based approach with the introduction of new housing codes. The effectiveness of these tools, however, remains essentially untested. In an effort to fill this critical gap, this article reflects on BASIX, the new NSW Housing Code and other similar measures in Australia, the United Kingdom and the United States. It suggests that codes, standards and targets can be appropriate tools to drive sustainable housing, but that the current measures in New South Wales do not achieve this aim. 486

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THOMSON REUTERS

© 2009 Thomson Reuters (Professional) Australia Limited
ABN 64 058 914 668

Lawbook Co.

Published in Sydney

ISSN 0816-956X

Typeset by Thomson Reuters (Professional) Australia Limited, Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW