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ARTICLES

Fertile Ground for Improvement: Evaluating the Regulation of Greenhouse Gas Emissions from Cattle Farming in Australia – *Dominic Bilton*

Cattle farming in Australia seems to exist in a no-regulation zone when it comes to the greenhouse gases it generates. This is likely to cause problems for Australia’s commitment to net zero emissions by 2050, because the cattle industry alone is responsible for nearly 10% of the country’s total emissions. This article evaluates the regulatory approach of the Australian Government – which is largely to reduce emissions by encouraging new practices and technologies – and then reviews other regulatory options which may be more effective. Four key policy recommendations are made – greater international participation in methane emissions reduction initiatives; an urgent independent investigation into the most suitable policy framework for Australia; strong consideration of a limited emissions tax on cattle production; and a national campaign to shift consumer preferences towards less emissions-intensive products. 305

Virtual Courtrooms: Technical and Jurisprudential Challenges and Solutions – Lessons Learned By the Land and Environment Court of New South Wales – *Susan A Dixon*

In a year when, during the COVID-19 Pandemic, most courts and tribunals ceased to offer their Alternative Dispute Resolution (ADR) services, the Land and Environment Court of New South Wales quickly moved to undertaking conciliations, mediations and hearings remotely using new technologies. In its endeavour to protect the health and safety of court users and maintain access to justice and court services, the Court introduced changes to procedures including the COVID-19 Pandemic Arrangements Policy and protocols for using teleconferencing, Audio-visual Link (AVL) and Microsoft Teams. While the deployment of remote ADR has enabled the Court to facilitate and meet the needs of the changing community, thereby promoting and increasing public trust and confidence in the Court and its processes, it has not come without its challenges. Albeit, overall the productivity of the Court has increased and in 2020, the Court was awarded “ADR Innovation of the Year” at the fifth annual Australian Disputes Centre ADR Awards 2020. 321

It’s Not Easy Being Green: Recent Developments in Environmental Regulation in Australia – *Alexandra Nash*

This article explores environmental obligations on corporate entities in Australia. In order to conclude whether or not relevant laws are adequately robust to alter the ‘business as usual’ operations of companies in this jurisdiction, this article will focus on various state environmental laws as well as Federal corporate laws. Ultimately, recent changes in environmental laws in New South Wales have increased exposure for directors and related companies, making it more difficult to avoid accountability for environmentally harmful acts. Further, Australian regulators are prioritising ESG issues as an area for

increased scrutiny and transparency, significantly increasing corporate risk of engaging in ‘greenwashing’. 329

Muddying the Waters: Load-based Licensing and the Use of Economic Instruments for Wastewater Sector Pollution Regulation – Rhea Rachel

New South Wales pollution law has seen significant reform over the last two and a half decades, moving gradually towards a dynamic market-based system aimed at encouraging pollution reduction through enviro-economic instruments. The load-based licensing scheme is one such market-based solution, which functions as an environmental tax that incentivises pollution abatement through reduced financial liabilities for licensees. The scheme draws upon the hand of the free market to reach the optimal balance between financial and environmental opportunities to subsequently enact positive environmental change. This article analyses the key benefits and shortfalls of New South Wales’ load-based licensing scheme, as well as the subsequent policy offshoots that have stemmed from it. Specifically, it focuses on the application of this scheme to pollution from the wastewater sector. In examining the paradigm shift towards market-based environmental outcomes, this essay further seeks to identify opportunities for refinement of enviro-economic instruments for water pollution regulation in New South Wales. 343

Food for Thought: An Assessment of Australian Law and Regulation for Combating Food Waste – Paul Perovic and Hope Johnson

Food waste is a significant issue in Australia and globally. Reducing food waste helps to mitigate climate change and minimise the environmental effects of agriculture on biodiversity, soils, and water. Law has an important role to play in addressing the causes of food waste. This article provides the first comprehensive analysis of Australian law and regulation regarding food waste. It details the disparate regulatory regimes that intersect with food waste, focusing on the role assigned to different actors and the advantages and deficiencies in the current framework. The article finds that, despite repeated political statements and the introduction of various initiatives, there is no clear and meaningful approach to adequately reduce food waste along Australia’s food supply chain. Instead, actions in current policy focus on managing, reusing and repurposing food waste through voluntary non-binding industry-lead initiatives and food rescue. This article shows why this focus limits the ability of the regime to respond to food waste and identifies opportunities to improve the regime. 354