

# ENVIRONMENTAL AND PLANNING LAW JOURNAL

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## ARTICLES

### **The rule of law, the public interest and the management of natural resources in Australia** – *Douglas E Fisher*

The statutory arrangements for the management of natural resources in Australia confer powers of decision-making upon government agencies and, at the same time, restrict how these powers are to be exercised by reference either to stated criteria or in some instances to the public interest. These restrictions perform different functions according to their structure, form and language: for example they may be in the form of jurisdictional, deliberative or purposive rules. This article reviews how the offshore resources legislation of the Commonwealth and some examples of the onshore resources legislation of Queensland address the functions performed by the public interest in determining whether there is compliance with the principle of the rule of law. .... 151

### **One stop shop for environmental approvals a messy backward step for Australia** – *Dr Chris McGrath*

The new Australian Government is establishing what it calls a “one stop shop” for environmental approvals. This principally involves entering approval bilaterals with State and Territory governments to accredit their decisions as satisfying any approval requirements under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). The Federal Environment Minister claims that the one stop shop “will slash red tape and increase jobs and investment, whilst maintaining environmental standards”. Whether the claimed benefits are achievable is an open question and there are serious potential problems with the proposed system. There is remarkably little evidence to support the claim that significant time and costs savings will be achieved by the policy. It also undermines one of the key functions and benefits of the EBPC Act in practice – to provide an appropriate level of oversight for State government decisions. This problem will be exacerbated if the Australian Government breaks its pre-election commitment to retain power for decisions on State government projects. .... 164

### **Australian World Heritage in danger** – *Simon Marsden*

This article analyses recent Australian developments under the World Heritage Convention with respect to Macquarie Island, the Great Barrier Reef and the Tasmanian Wilderness. It reviews the state of conservation of each of these properties which have been (Macquarie Island), or are (Great Barrier Reef and Tasmanian Wilderness), at risk of inscription on the List of World Heritage in Danger. The primary focus is upon international law and the Great Barrier Reef, the site that is the most iconic and subject to the greatest threats. The purpose of this List and the process by which properties can be inscribed on it are reviewed in the context of Australia’s compliance with its obligations under the Convention. .... 192

**Protecting third party rights of appeal, protecting the environment: A Tasmanian case study** – *Madeleine Figg*

The importance of public participation in environmental and planning law is well established. Despite this, policies to “streamline” environmental approval processes are in vogue in many Australian jurisdictions, leaving public participation opportunities, including third party rights of appeal, vulnerable to restriction. Through a case study of the Tasmanian Resource Management and Planning System and an examination of practitioner experience, this article demonstrates that allowing accessible third party rights of appeal in planning systems frequently leads to better decision-making, as well as providing a means of achieving better environmental outcomes. Calls for reform should be directed at improving access issues, rather than limiting or abolishing third party appeal rights. .... 210

**The e-waste dilemma: Are international measures and product stewardship schemes a solution?** – *Zada Lipman and Matthew Ind*

The disposal of e-waste is an increasing challenge due to the acceleration in its volume and the environmental and human health hazards associated with its disposal. The issue is not confined to domestic waste disposal, but presents international complexities as large volumes of e-waste find their way to developing countries, testing their fragile environmental and human health regulatory systems. The global community has responded by adopting a number of measures, ranging from international conventions regulating movement of hazardous material through to domestic policies and legislation seeking to control products throughout their life cycle. This article will examine the problems associated with the disposal of e-waste and evaluate some of the measures that have been adopted to address them. A particular focus will be the use of product stewardship arrangements, including the *Product Stewardship Act 2011* (Cth). .... 223

**2030 vision: An analysis of proposed structural reforms of the European Union’s Emissions Trading Scheme** – *Joshua Prentice*

With a surplus of over two billion emissions allowances on the market, the carbon price under the European Union’s Emissions Trading Scheme has plummeted since 2008. Important changes to reduce free allocation of emissions allowances were implemented in 2013. However, further structural reforms are necessary to correct the imbalance between supply and demand for emissions allowances. In January 2014, the European Commission proposed two structural reforms – sharpening the annual linear reduction factor and introducing a market stability reserve. This article analyses the potential effectiveness of these reform proposals, which will be essential for ensuring that the European Union meets its overall 40% emissions reduction target by 2030 in a cost-effective manner. .... 236