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ARTICLES

Leading reform of natural resource management law: Core principles – *Paul Martin* and *Neil Gunningham*

Law reform in the sphere of natural resource management (NRM) requires consideration of not only doctrinal matters but also of the balance between doctrine, institutions and context. For law reform to work it must have regard not only to strategies, instruments and institutions that are overtly "the law", but also must take account of the broader ecological and governance landscapes with which it seeks to engage. These challenges are particularly acute with regard to agricultural NRM, where the challenges for law reform are exceptionally complex. This article argues that only if doctrinal improvement is embedded within reform of the architecture of laws and institutions within which particular laws operate, will substantially improved environmental outcomes be achieved. Mindful of the complex intersection between law, the natural world and the socioeconomic system, this article proposes 10 principles or directions for reforming NRM law. These are not concerned with doctrinal improvement per se but are intended to ensure that doctrinal matters are considered within a more robust environmental governance framework. The goal is not only for legal instruments to be well designed in a formalistic sense, but that they will take greater account of the context in which they must be implemented; and as a result, have a much greater chance of being efficient, effective and fair. 137

Marine bioprospecting in Australia: International regimes and national governance – *Shoanne Labowitch*

Australia has a vast marine environment and has ratified a number of international conventions that relate to the exploitation of marine resources both within and external to Australia's jurisdiction. The marine environment is the focus of a growing industry, born from the collection and commercialisation of marine biological resources for a range of applications. Australia has attempted to integrate its responsibilities internationally with the burgeoning marine bioprospecting industry. It has had some success in achieving this objective via the Environment Protection and Biodiversity Act 1999 (Cth) and corresponding regulations. The multi-jurisdictional reality of Australia's marine environment makes such a task difficult and there is a large potential to increase the scope of not only Commonwealth legislation and policy, but also those of the Australian States and Northern Territory. 159

That sinking feeling: A legal assessment of the coastal planning system in New South Wales – *Zada Lipman* and *Robert Stokes*

Recent evidence indicates that the New South Wales coast faces increasing risks from erosion and inundation as a consequence of the enhanced greenhouse effect and rising sea levels. At the same time, a rapidly expanding population in coastal New South Wales is fuelling demands for more subdivision and development. Both of these trends are increasing the likelihood and quantum of damage to private property in oceanfront or low-lying locations along the coast. An escalating threat of damage generates an increase

in the likelihood of claims against public authorities with responsibility for land-use planning in coastal areas. This article examines the measures New South Wales has adopted to deal with coastal erosion and climate change flood risks. An analysis of recent initiatives, including the legislative changes to the Coastal Protection Act 1979 (NSW) and the Local Government Act 1993 (NSW), as well as a case study of coastal erosion at Belongil Beach, will be undertaken to assess the efficacy of the current system. The article then considers the capacity of current measures to protect public authorities from future litigation arising from land-use planning decisions on the New South Wales coast. Finally, the article offers some suggestions for replacing the current system with an integrated sustainable coastal planning framework. 182

Tree clearing, hunger strikes and Kyoto targets – the need for a middle ground – *Justine Bell*

Climate change and loss of biodiversity have emerged as serious environmental problems in Australia and internationally. Australian governments have introduced laws designed to address these problems, including laws that restrict, and in some cases prohibit, tree clearing. Although regulation of tree clearing is needed to reduce emissions and protect biodiversity, there has been an overreliance on tree clearing bans by the Australian government as a means of meeting Kyoto targets, thereby reducing the need for emission cuts in other sectors. This article addresses recent legal, political and social developments in this area, and suggests a move towards a middle ground that provides for limited clearing in a sustainable manner, accompanied by emission cuts in other sectors. 201