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# Too much too soon? On the rise and fall of Australia's coastal climate change law – Philippa England

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# From rights to responsibilities: Reconceptualising carbon sequestration rights in Australia – Pamela O'Connor, Sharon Christensen, WD Duncan and Angela Phillips

Biosequestration of carbon in trees, forests and vegetation is a key method for mitigating climate change in Australia. To facilitate this, all States have enacted legislation for carbon sequestration rights, separating commercial rights in carbon from ownership of the land,

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trees and vegetation in which the carbon is sequestered. Ownership of carbon sequestration rights under State law is a prerequisite for the issue of carbon credits to proponents of "eligible sequestration offsets projects" under the Carbon Credits (Carbon Farming Initiative) Act 2011 (Cth) (Carbon Farming Act). This article examines the extent to which current State carbon sequestration rights support the offsets regime established by the Carbon Farming Act. The Commonwealth Act is concerned with allocating responsibilities to ensure the maintenance of the carbon sequestration, while the State Acts confer commercial rights in the carbon and leave the responsibilities to be allocated by private agreements. The carbon sequestration rights as defined by State laws do not confer the rights of access and management over land that a project proponent needs in order to discharge its responsibilities to maintain the carbon sequestration.

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## Strategic environmental assessment in Australian land-use planning – Simon Marsden

This article considers the application of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) provisions on strategic environmental assessment (SEA) to land-use planning. Until recently, other than application to the fisheries sector, the use of these provisions has been extremely limited. Law reform in 2006 intended to improve the take-up of the provisions, which depend on agreement between the proponent and the Australian Environment Minister, appears to have made a difference, with SEA applied to resource development proposals and in the land-use planning sector – the latter of which globally has resulted in the greatest number of SEAs. The article evaluates the strengths and weaknesses of recent practice in this sector, which was begun in the ACT in 2008. Conclusions are drawn that after considerable delays in implementation, SEA may at last have begun to realise its Australian potential. .....

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## "Greenbacks" versus green credits: Has the Carbon Farming Initiative got the **balance right?** – *Emma French*

The Carbon Farming Initiative (CFI) is an Australian government carbon offset scheme allowing agricultural producers to generate carbon credits from emissions mitigation and sequestration activities on Australian farms. This article explores the potential of the CFI to be effective as an offset scheme. It does so by examining how successfully key design principles have been balanced in the scheme. The scheme is guided by two design principles: to ensure environmental integrity; and to enable broad participation. The CFI incorporates a number of strong environmental integrity features, many of which represent significant improvements comparative to the Clean Development Mechanism. The scheme also addresses the economic issues specific to the agricultural industry to enable participation by producers. The article concludes that the two criteria have been well 

## "Risk-based regulation" in environmental governance

- Bruce Lindsay and Cecilia Riebl

Concepts of "risk-based" regulation in the environmental sphere have acquired considerable official interest in Australia in recent years, both at national and State levels. This article considers origins and context of "risk-based approaches" to environmental regulation in Australia and internationally, with a view to interrogating the meaning of these concepts. It critically reviews the content and practical operation of "risk-based approaches" to environmental regulation, concluding that cautious consideration is needed. The article outlines a principled framework for the interpretation and application of risk models in the service of environmental protection.

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