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ARTICLES

Emerging legislative regimes for regulating carbon capture and storage activities in Australia: To what extent do they facilitate access to procedural justice? – *Guy J Dwyer*

Anthropogenic climate change is a fundamental challenge. Of the various responses to this "super wicked problem", carbon capture and storage (CCS) is one that has been mooted in Australia during recent years. While many commentators continue to question the technological and economic feasibility of CCS, a number of Australian governments have adopted a proactive stance to CCS by amending or enacting legislation to regulate CCS activities in their respective jurisdictions. To date, there has been little critical examination of these legislative regimes and their implications for the future role of CCS in Australia. Accordingly, this article focuses upon one central area of CCS regulation that has not been comprehensively addressed by the existing literature – that is, the extent to which emerging legislative regimes for regulating CCS activities in Australia facilitate access to procedural justice. Access to procedural justice will generally be facilitated in circumstances where the law gives procedural rights to members of the community of justice to: have access to information, participate in decision-making processes, and have access to review procedures before a court or tribunal to challenge decision-making or impairment of substantive or procedural rights. This article undertakes a comparative analysis of the laws that have been enacted or amended to regulate CCS activities in Australian jurisdictions in order to identify standards of best practice for facilitating access to procedural justice. It finds that while many of the laws regulating CCS activities in Australia reflect clear attempts by government to facilitate access to procedural justice, some of these laws fall short of facilitating access to procedural justice in an adequate or sufficient manner. Recommendations for law reform are made with the aim of providing guidance as to how Australian CCS laws can better facilitate access to procedural justice in the future. 3

The scope of a 2015 climate change agreement: A mixed top-down/bottom-up approach to achieve universal participation – *Anna Celliers*

The United Nations Framework Convention on Climate Change Conference of the Parties in Paris, in 2015, will be an important juncture in international environmental law as the world seeks to break new ground in climate negotiations. The latest Intergovernmental Panel on Climate Change report warns that the world has only a small window of time in which to respond to avoid the most serious consequences of global warming beyond two degrees Celsius, and the continued formalisation of the "pledge and review" approach appears to be the most pragmatic way to seize this opportunity. This model allows for sufficient flexibility in national responses so as to have the greatest prospect of garnering universal consensus, but distances itself from the extreme implementation of the "common but differentiated responsibilities" principle displayed in the Kyoto Protocol. 46

Regulatory obesity, the Newman diet and outcomes for planning law in Queensland – *Philippa England*

Since 2012, Queensland's Liberal National Government, led by Campbell Newman, has passed several new or reformed environmental and planning statutes. In every case, cutting red tape, by eliminating duplication and procedural inefficiencies, was top of the agenda. The main pieces of legislation are: the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* (Qld), the *Sustainable Planning and Other Legislation Amendment Act 2013* (Qld), the *Economic Development Act 2012* (Qld) and, in 2014, the *Regional Planning Interests Act 2014* (Qld). This article analyses these statutes to assess their contribution to eliminating duplication and cutting red tape. 60

The way forward: Are further changes to Australian water governance inevitable? – *Maureen Papas*

The management of water resources is a very complex process. This is especially true in Australia, where water availability is highly variable and rivers are shared across multiple States and Territories. Under Australia's federal system, water challenges have been progressively dealt with through political institutions that require the cooperation of both federal and State governments. The current Australian Government has indicated a strong preference for limiting the role of the federal government and boosting that of the States, as a central thrust of the Terms of Reference for the proposed *White Paper on the Reform of the Federation*. This article argues that, while water is a minor focus of the White Paper, the reforms to the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) and the National Water Commission, that are underway independent of the White Paper, are closely connected, since much of the debate concerning the role of the Commonwealth in water matters is occurring more explicitly in the context of those reforms. The article reviews the reforms and comments on how the weakening of one level of government can undermine effective governance. 75