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ARTICLES

Licensing Greenhouse Gas Emissions in Western Australia – *Olivia De Koning, Helena Nguyen and Alex Gardner*

The past and current practice in Western Australia has been not to regulate greenhouse gas emissions (GHGe) by licences issued under *Pt V of the Environmental Protection Act 1986* (WA) because such emissions do not cause pollution or environmental harm. This view should be reconsidered in light of the post Paris Agreement characterisation of GHGe and because the *Environmental Protection Amendment Act 2020* (WA) inserts a new s 74A(2) providing that "[a] licence does not authorise an emission unless the emission is specified in the licence as an authorised emission". The amendment may affect the scope of the key defence to the offences of causing pollution and environmental harm; that of acting "in accordance" with a licence (licence defence). It is arguable that Pt V licensees with substantial GHGe may need to apply for licence amendments specifying the extent of those emissions to secure the licence defence. 99

Standing Outside: An Environment of Challenge and Withheld Cures – *Matthew Groves*

Much of the recent analysis of standing rules has focused on the novel provisions of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). The focus may distract attention from standing principles under the general law. This article examines those principles and argues that they can and should be adjusted, so that standing in environmental cases is less difficult to establish. The article also considers the developments to this effect that were confirmed by the United Kingdom (UK) Supreme Court in Walton v Scottish Ministers. It is argued that adoption of the simpler and more rational UK approach would represent a relatively small step in Australian law. 111

Visions of Electrification and Potential for Decarbonisation: The Absence of Ridesharing and Carsharing in Australia's Electric Vehicle Policy – *Alannah Milton*

Governments around the globe are giving electric vehicles the greenlight to decarbonise passenger transport. But not everyone proposes the same idea of how they should be integrated. In sustainable transport policy and scholarship, two distinct visions emerge: "conservative" mass private electric vehicle uptake and "progressive" shared and intermodal electric mobility. Despite the conservative vision currently guiding most approaches, there is increasing concern about its capacity to deliver the decarbonisation required to avoid worst case climate change scenarios. Concerns centre on the slow uptake of electric vehicles, their life-cycle emissions and their priority over more energy efficient forms of mobility such as public transport, cycling and walking. Consequently, the progressive vision has gained traction, with electric ridesharing and carsharing as a core focus. Prioritising these industries for electrification is anticipated to minimise uptake barriers and reduce transport emissions quicker. This article evaluates federal and New South Wales electric vehicle policies against the two visions to gauge their decarbonisation potential.

I argue that by failing to explicitly consider the ridesharing and carsharing industries for electrification, current policy measures largely reflect the conservative vision, limiting their emissions reduction potential. Though some measures may indirectly support the ridesharing and carsharing industries to electrify, without imagining electric vehicles as part of a transformed mobility system, Australia takes a business-as-usual approach to electrification. 132

Returning the Environment to Their Custodians: Strengthening Indigenous Influence in Environmental Decision-making – *Kenny Ng*

Undoubtedly, there has been progress in States around the world in including Indigenous peoples in formal decision-making on environmental matters. However, there remain deeply rooted weaknesses in the current environmental decision-making approaches of such States which were once inhabited only by their Indigenous peoples. This article takes on an Australian perspective on Indigenous rights, without precluding the rights of and drawing references to the experiences of Indigenous peoples across the world. After setting the context to the issue, this article explains the various bases of the need for greater Indigenous influence in our environmental decision-making processes, before considering the weaknesses in having greater Indigenous influence in environmental decision-making. Lastly, the article provides local solutions for Australia on how we can improve our environmental decision-making processes with our Indigenous peoples. 150

Child Rights and Climate Change: Litigative Avenues for Australian Children – *Stefan Prelevic*

In 2019, children around the world made history by walking out of school in the largest globally orchestrated climate change protest. The protest movement alone failed to incentivise governments to adjust their climate change policies, resulting in an explosion in child climate change litigants in both domestic and international courts. Building on the "rights turn" in climate change litigation, these cases have increasingly incorporated human and child rights-based arguments. Until recently, Australia was a notable absentee from this trend. However, this changed at a domestic level when Queensland enacted the *Human Rights Act 2019* (Qld), where child rights-based arguments are currently being tested in the *Youth Verdict v Waratah Coal* case. It may also change at the international level if Greta Thunberg and 15 other petitioners are successful in their "communication" under the Optional Protocol on a Communications Procedure to the Convention on the Rights of the Child. 167