

# The environmental agenda

*Locally, nationally and globally, environmental issues raise a multitude of legal and social questions that are in the public interest.*

TRICIA CASWELL

I am very pleased to be here, on behalf of the Australian Conservation Foundation (ACF) calling for a well overdue re-think, re-definition and re-development of exactly what the public interest is.

There is a great deal of urgency about addressing the relationship of a decent society to the natural environment. Ecologically sustainable development has been developed as a notion over the past 15 years. It was highlighted at the Rio Earth Summit (1992), the largest ever meeting of nations in connection with environmental issues and related questions of economy and equality. Ecologically sustainable development concerns survival, and emphasises the need to understand much more about eco systems and ecological integrity.

There are two very important principles to be noted: the first is intergenerational equity, borrowing resources from the globe and from the future rather than owning them. The second is a precautionary one: we do not need to know everything or be absolutely sure of everything before we take action. It is a principle that most people recognise, but in a global sense it is often overlooked.

There are six areas that I think will inform discussion about the notion, shape and depth of the public interest. These are major areas of concern to environmentalists globally and in Australia, as well as to ACF. They equate closely with the generalised position of the environment movement.

## **Bio-diversity**

Unless there is species survival, the health of the globe is in trouble. We remain incredibly ignorant about bio-diversity, knowing about 1.4 million

species, compared with the existence of up to 80 million. There are so many different estimates by so many credible scientists that it is hard to say what that upper limit might be.

We do know the rate of extinction is as great as it was 65 million years ago, and that suggests that it is faster now than it should be. Australia has more species and rainforests than probably any other kind of eco system. They are invaluable to industry, not just to the environment, and they raise serious questions of property rights and genetic engineering. How bio-diversity should be addressed is a major public interest question.

Australia has a lot of different species; it is one of the 12 most mega-diverse countries on earth. In the past 200 years, however, Australia has lost half of the mammals that have ever become extinct internationally. The endangered species legislation which crawled through the Parliament last year was not one that ACF felt adequate. It does not allow for the public interest to be addressed, whether in terms of what an endangered species might be, how it should be looked after, what sort of resources we need, or what sort of deals we need with the corporate sector, the community and government to ensure a species does not become extinct.

These are hard questions, yet when the fast tracking proposals in relation to the Mount Todd Goldmine in the Northern Territory sped through Parliament last year, there was precious little time for proper examination of what is a remote and complex area. We are deeply ignorant about it, yet only weeks were given for scientific responses to the problems of bio-diversity there.

## **Climate change**

This is less fashionable than it was when the hole in the ozone layer was discovered in the early 1980s. With climate change there are a number of questions about energy use, about the best way of using natural resources, and what those resources are worth.

Australia has a coal-based economy, making us a great contributor to the greenhouse effect, one of the top three in the western world in fact. We have to do a lot more to correct that, but there is very little movement at the moment. We are very unlikely to meet international obligations resulting from treaties on climate change struck at the Rio de Janeiro conference.

## **Sustainable agriculture and urban issues**

Sustainable agriculture involves important questions of water rights, land damage and bio-diversity. We have damaged half of the available arable and pastoral land in Australia in the past 200 years, with only 5% of our population on that land. Despite arguments to the contrary, Australia clears as much or more native vegetation as is done in the Amazon basin.

Water pricing is also a controversial issue, along with the question of damming and the way we clear land. Legal and economic questions of community and industry rights are bound up as one.

Urban issues relate to clean air, water, transport, planning, households and health issues. ACF has produced reports on transport and local government, promoting the greening of the planning process.

## Trade

ACF has established a 'green jobs and industry' unit which is telling us much more than we knew previously of the extraordinary growth in the environment industry internationally. President Bill Clinton is still talking about a green GDP, Ros Kelly is talking about a green GDP, the United Nations is talking about taking natural resources into the economic accounting process. In the next few years there will be considerable trade wars, with environmental criteria one of the major considerations. It will not be possible to trade with Germany in a few years unless up to 90% of the products traded are then recycled.

## Federalism

Lastly, there are the controversial areas of institutional and constitutional reform. It is clear that the natural environment in Australia knows no State boundaries. The environment is a national obligation but, with federalism and the Constitution as they remain, it is a problematic one; a green republic, with perhaps Peter Garrett its first president, is something to be considered.

The intergovernmental agreement on the environment is an extraordinarily complicated way of making decisions. It raises questions of how we might make environmental impact assessments that are genuine, that integrate the environment into the mainstream of political and economic decision making in this country.

Exceptional changes are needed in how decisions are made, and how we plan what we do, across the political, economic, social and cultural spectrum. The environment needs to be factored in, in ways never previously considered, because we have never known more about environmental effects than we do now.

*Tricia Caswell is the Executive Director of the Australian Conservation Foundation.*

# The consumer versus government & business

*Locked out of decision making, out-gunned by business and kept in the dark: consumers still need public interest advocacy.*

LOUISE SYLVAN

There are three aspects of the public interest I want to address: access to justice, access to information and decision making, and the nature of the relationship between business and government.

## Access to justice

It is quite clear that in our society the wealthy can afford to buy justice (or at least a proper hearing) and the very poor – that is, destitute – can afford justice by attracting legal aid (at least for criminal matters); the majority fall between. Thus most consumers are disadvantaged seeking justice. A range of alternative dispute resolution mechanisms, tribunals and so forth have sprung up to ensure that people can get some access to justice. But as for consumers' ability

to enforce their rights, I believe things will have to go much further.

One area for exploration is that of the 'fashionable' self-regulatory or co-regulatory codes. While the Australian Consumers Association (ACA) has been dismayed by the weakness of some of these codes, particularly those developed without any consumer involvement, we have made a pragmatic commitment to try to improve them and more importantly to try to ensure that consumers can actually enforce their rights under them. There are very few self-regulatory or co-regulatory codes that can actually be taken up through the Fair Trading Acts and be pursued before the Consumer Claims or Small Claims Tribunals. If such codes can find expres-

sion within the *Trade Practices Act* and *Fair Trading Acts*, consumers could enforce their own rights without waiting for a government regulator to take action.

For example, in the New South Wales domestic white goods servicing code, if there was a proper clause about failure to show up for a servicing appointment, the consumer who has taken the day off work to meet the washing repairer would actually be able to seek compensation through the Tribunal. This would not only ensure some justice, it might also ensure rather better performance on the part of these repairers. Having a few million consumers enforcing the rules is a lot better than a few hundred regulators (who may