

book review

Pollution Law in Australia,

Z. Lipman & G. Bates, LexisNexis Butterworths, Chatswood, 2002

reviewed by Simon Marsden, Solicitor, Environment Agency, UK

Pollution Law in Australia is intended to be the first comprehensive work on pollution law and policy in Australia. It contains ten chapters, five of which are written by the principal authors, and five of which are written by others with substantial experience in particular areas. The book demonstrates the growing trend in the literature on environmental law and policy to focus upon specialist areas, of which Fisher's *Water Law* (LBC, 2000), is another recent example. This specialisation demonstrates the huge growth in environmental law in Australia (and interest in it), over the last twenty years since the first edition of Bates' *Environmental Law in Australia* was published in 1982 (Butterworths). As the general texts continue to grow in scope and size, there is inevitably demand for more texts of this kind.

The book can be divided into two parts. The first five chapters provide context, and consider pollution law and policy with reference to increasingly integrated systems, outlining modern approaches to environmental management (Bates), economic instruments in pollution control (Richardson), civil remedies (Bates), criminal offences and penalties (Lipman), and corporate and directors' liability and due diligence (Lipman). The second five chapters examine the specific regimes for waste disposal and management (Malone), hazardous substances (Lipman and Bates), contaminated land (Wilcher), land-based sources of marine pollution (Brunton), and marine pollution from ships (White).

The book follows the content of Bates and Lipman's earlier *Corporate Liability for Pollution* (LBC, 1998 ~ reviewed in AELN, June 1999) quite closely. *Corporate Liability for Pollution* was designed to provide a detailed explanation of the laws relating to pollution control in Australia, with specific reference to the practical application of the law to the corporate sector. *Pollution Law in Australia* updates *Corporate Liability for Pollution* and makes it redundant. It reflects the fact that the law has moved on since, and the contributions of Richardson, Malone, Wilcher, Brunton and White add important new material and depth to Bates and Lipman's earlier (at the time), comprehensive analysis. The inclusion of this new material justifies the claims of comprehensiveness made.

Chapter 1 considers the legal interpretations given to pollution and environmental harm, and the national environmental protection measures that provide the policy context. The mixture of regulatory controls and economic incentives to manage pollution are well outlined, and the licensing regime is fully explained. Chapter 2 explains the rationale for economic instruments, contrasts them with command and control measures, and helpfully examines their development, application and future in Australia. Chapter 3 looks at the common law and administrative remedies available to take action against polluters, and Chapter 4 criminal offences and enforcement, whether serious or otherwise. Chapter 5 maintains the important focus of *Corporate Liability for Pollution*, and discusses directors' liability and due diligence.

Chapter 6 deals with the growing issue of waste; the problems caused by disposal and alternatives to it, and the need for government regulation. Among other things, this includes some consideration of the role of land use planning and development. Chapter 7 examines the particular regimes for regulating hazardous substances, industrial chemicals and environmentally hazardous chemicals, ozone-depleting substances, pesticides, dangerous goods and radioactive substances, some of which are based upon international law.

Chapter 8 considers the problems presented by contaminated land, in particular liability in ownership, sales and development. The focus here is primarily on the NSW system, which is the most developed, with helpful reference to new legislative developments in WA. Chapter 9 deals with land-based sources of marine pollution, and considers Australia's compliance with its international law obligations. Finally, Chapter 10 looks at marine pollution from ships, with the need for international law to be effectively implemented emphasised.

There is no concluding chapter to the book, which is a shame. It would have been helpful for some comment to be made upon how well pollution law in Australia is integrated and co-ordinated in the light of the specialised regimes in the latter five chapters, and for some comment on what the future holds. Perhaps inevitably, economic measures will feature more strongly in government responses to environmental harm in the future as the shift from direct regulation becomes more pronounced, and prevention rather than control is emphasised. Whether or not policy responses are better integrated and co-ordinated however, remains to be seen. The legislative approaches taken to contaminated land around Australia differ greatly, and there is still a need to manage environmental harm to all media concurrently, especially from diffuse sources.