

Episode 56: Summary

Episode name: Green Lawfare: Public Interest or Public Menace?

Guest(s): Annika Reynolds

What area(s) of law does this episode consider?

Environmental law, public interest environmental litigation and the idea of so-called “green lawfare”.

Why is this topic relevant?

Public interest environmental litigation is a powerful tool to hold parties to account for the impact of their actions on the environment. It has been unfairly described as vexatious and frivolous, with an intent to hinder Australia’s infrastructure projects.

However, longitudinal empirical data of environmental matters in the Federal Court does not support the conclusion that public interest environmental litigation acts as a brake on infrastructure projects, or that it is used frivolously or vexatiously to stall development.

What legislation is considered in this episode?

Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017 (Vic)

Environmental Protection and Biodiversity Conservation Act 1999 (Cth)

Federal Court of Australia Act 1976 (Cth)

Human Rights Act 2004 (ACT)

Climate Change and Greenhouse Gas Reductions Act 2010 (ACT)

What are the main points?

- Granting rivers legal personhood reflects the beliefs of Australia’s Aboriginal peoples who have a strong connection with rivers and the land.
- The term ‘green lawfare’ is used to invalidate public interest environmental litigation and is not reflected in the statistical analysis conducted by GreenLaw of these claims brought before the Federal Court.
- The ACT has taken important steps toward energy emission reduction and sustainability. They have legislated greenhouse gas emission and renewable electricity goals and are on track to achieving them.

What are the practical takeaways?

- Get involved with GreenLaw and its future projects by contacting them. Their email is: green_law@outlook.com

Show notes

[The Hon George Brandis QC’s address to the Australian Institute of Administrative Law forum No. 90 called ‘Green Lawfare’ and Standing: The View from Within the Government’](#)

[A report by Andrew Macintosh, Heather Roberts and Amy Constable titled ‘An Empirical Evaluation of Environmental Citizen Suits under the Environment Protection and Biodiversity Conservation Act 1999 \(Cth\)’](#)

[ACT Greenhouse Gas Inventory for 2020-21 prepared for the Environment, Planning and Sustainable Development Directorate ACT Government](#)

[General Comment No. 36 from the Human Rights Committee](#)

[International Covenant on Civil and Political Rights](#)

[ALHR 'Human Rights Act for NSW' campaign](#)