

## BOOK REVIEWS

Douglas, R, and Jones, M (1999)

**Administrative Law: Commentary and Materials** (Third edition)

The Federation Press, Sydney. ISBN 1-86287-325-9. 797pp. (Price not stated).

A number of areas of law have relevance to environmental law: international, constitutional, administrative, property, planning, criminal and common law come readily to mind. With the exception of planning law, administrative law is arguably the most important, because environmental legislation is often concerned with setting up procedures and delegating decision making powers to those who must act in accord with them. Decisions are commonly taken in the form of plans, permissions and directions/notices/orders; if they are not taken in accord with statutory procedures, administrative law provides an opportunity for them to be reviewed.

Specialist environmental courts have found favour with legislators in Australia and all of the following have conducted merits appeals and/or judicial review of decisions: the Land and Planning Appeal Board (ACT), Lands and Mining Tribunal (NT), Land and Environment Court (NSW), Planning and Environment Court (Qld), Environment, Resources and Development Court (SA), Resource Management and Planning Appeal Tribunal (Tas), Administrative Appeals Tribunal (Vic), and Town Planning Appeal Tribunal (WA). Douglas and Jones' text provides essential reading for anyone conducting or determining merits appeals before specialist tribunals (Ch 7), and/or appeals on questions of law to the superior courts (Ch 9).

The book deals with much more than this. It provides helpful information on freedom of information (Ch 3), understanding decisions (Ch 4), and the role of the Ombudsman (Ch 6). An understanding of each of these areas is necessary to advise a client on how best to proceed with many environmental law cases. It considers issues and problems in Australian administrative law (Ch 1), looks at the decline of the legislature through delegated decision making (Ch 8), and the development of administrative law from English to Australian precedents. The statutory basis of administrative law is also explained, with reference to the *Administrative Appeals Tribunal Act 1975* (Cth) and the *Administrative Decisions (Judicial Review) Act 1977* (Cth) (Ch 2).

Most of the commentary deals with judicial review. Questions of standing (Ch 10), exceeding powers (Ch 11), discretion (Ch 22), and the exercise of discretionary power generally (Ch 12) are all considered. Other sections set out in detail the duty to act for proper purposes and in good faith (Ch 13), the duty to take into account only relevant considerations (Ch 14), *Wednesbury* unreasonableness and the no evidence rule (Ch 15), the rule against bias (Ch 19), the right to procedural fairness (Ch 16 and 17), the hearing rule (Ch 18), limits to fairness (Ch 20), and judicial remedies (Ch 21).

The authors have helpfully chosen recent, Australian decisions to illustrate each issue. A number deal with environmental law: *Minister v Austral Fisheries Pty Ltd* (delegated legislation); *ACF v Commonwealth* (standing); *R v Toohey* (proper purposes/good faith); *Minister v Peko-Wallsend* (relevant considerations); and *Ackroyd v Whitehouse (Director of National Parks and Wildlife Service)* (limits to fairness). For anyone looking to understand administrative law and its relationship with environmental law, Douglas and Jones can be highly recommended.

Simon Marsden.