

AGENDA 21: THE FAILURE OF DEMOCRACY & THE MAINSTREAM MEDIA IN AUSTRALIA

WHY DID THEY LET US DOWN.....FOR 20 YEARS?

PART 1 – HOW DID THIS HAPPEN?	SOME MAIN POINTS
How did this happen....why did no one give us an electoral choice in 20 years?	Councils around the country are busy transferring private property rights of landowners, piece by piece, to the plants or 'eco system' of which the property is comprised
PART 2 – AUSTRALIAN LAWS REWRITTEN TO ENFORCE PLANT RIGHTS AND REDUCE HUMAN RIGHTS & FREEDOMS	
Rewriting the Legal System to Enforce the Rights of Plants & the Environment	Councils are busy putting so many obstacles and restrictions on landowners their land is becoming virtually unusable and worthless.
Loss of Property Rights	The value of local land owner's properties is being reduced without compensation – akin to taking money from their bank accounts without permission, once called stealing.
The Effectiveness of Biobanking for Biodiversity	Councils are participating in this land rezoning program at the behest of the United Nations and their Agenda 21 program.
Councils Act as Agents for the UN	
Council Implementation of Agenda 21 Voluntary	Local Agenda 21, promoted by ICLEI, is designed and monitored by the UN but implemented by local Councils.
Government Encourages Oil/Gas Companies to Trash the Environment	Agenda 21 is very much a blank cheque, with no defined limit or end point.
Agenda 21 Banned	Although the environment is an excuse for these reforms, the biggest environmental vandals of all, the oil and gas industries, have been given specific legislative exemptions so they can trash the land at will.
Links re Phony Environmentalism, Property Rights, & the Law	Those who seek to turn air and pollution into marketable commodities, also seek to do the same with water and nature (ie the ecosystem). By putting a (controllable and transferrable) price on that which is priceless, they claim they are making it more valuable.
	Since the provisions of Agenda 21 are so repulsive to normal people, it relies upon deception for its success – in 20 years no Australian government (at any level) has opted to spell out the full details of Agenda 21 during an election campaign to give voters a democratic choice.
	Agenda 21 is now being banned overseas because of the threat it poses to fundamental human rights, particularly property rights.

PART 1 – HOW DID THIS HAPPEN?

WHY DID NO ONE TELL US OR GIVE US A CHOICE.... IN 20 YEARS?

Today, in 2012, the lives of all Australians are being increasingly controlled by an undemocratic foreign agency, the United Nations, through their Agenda 21 program which is being implemented with the assistance of all three levels of government in Australia.

This is a simple fact evidenced by voluminous documentation (see below) from the Commonwealth government, state governments, and local councils.

Community ignorance about this program, and even political ignorance, is absolutely astounding, and yet this program has been around for 20 years. How is this possible? Offering an informed choice to voters is the essence of democracy. This democratic choice separates tyrannical despotic regimes from first world democracies.

[Agenda 21](#), or the Agenda for the 21st century, was adopted at the United Nations [Earth Summit](#) or United Nations Conference on Environment and Development (UNCED) at Rio in 1992 and formed the basis of Australia's [National Strategy for Ecologically Sustainable Development \(NSES\)](#). It was approved by [Ros Kelly of the Labor Party and later by Robert Hill and John Howard](#). Although [Agenda 21](#) is a soft law document that has no solid basis in Australian law, in practice the 'sustainability' and life controlling provisions of Agenda 21 have been enthusiastically embraced and implemented by all levels of government in Australia, particularly local government. The [Commission on Sustainable Development](#) or CSD was subsequently established by the UN to supervise and monitor the implementation of Agenda 21. And the [Commonwealth government](#) has been busy funding the [United Nations Agenda 21 plans](#) so the UN could increasingly interfere in the lives of all Australians.

Australians have long trusted their politicians and expected to be given a fair go. They have been let down. But they have been let down by every government, and every level of government, for 20 years. In a shameful period of Australian politics no Commonwealth, state, or local government in Australia in the past 20 years has sought to truthfully inform Australians and give them a democratic choice by presenting the full goals of Agenda 21 during an election campaign (I stand to be corrected if anyone can supply evidence to disprove this!).

Why would they do this?

There are many reasons no doubt, but undoubtedly many thought this campaign of deception and selling out to the UN was in the best interests of Australia. Gullible politicians were probably dazzled and blinded by the cure all promises of globalisation. As Alexander Downer pointed out, politics is no longer about left versus right, it is about whether you disapprove of globalisation (ie love Australia) and are a globaphobe, or you love globalisation and are therefore a globaphile ([1](#), [2](#), [3](#), [4](#)). According to Downer ([1](#)), *"The triumph of globophobia would be a death note for Australia...Let me put this clearly - globalisation is an irreversible trend."* Globophobia of course, means putting Australia and Australians first. But according to Downer this would be a death note for Australia. Australia can only advance it seems, if we put Australia last and the globe first.

No room for democracy here it seems, the decision has already been made. But it was a decision made by UN servants not public servants. We must work to support the 'globe', not Australia.

Of course, those subjected to this bizarre UN promoted global view then become susceptible to the groupthink which commonly afflicts feel good philosophies and global talkfests ([5](#), [6](#), [7](#), [8](#), [9](#), [10](#), [11](#), [12](#)). Groupthink is irrational consensus thinking which aggressively rejects alternatives ([6](#), [8](#)). It is the

same type of mentality which has resulted in large numbers of people accepting the bizarre belief that climate, rain, and severe weather, may be controlled with a CO2 tax ([12](#)).

So our politicians have subserviently acceded to the dictates of the UN, and in 20 years they have refused to permit Australians to make an informed democratic choice by placing all the cards on the table during the electoral process. But why would they? They would not dare even to test Downer's globophobia philosophy during an election!

But what about the media? Unfortunately the mainstream media has also let Australians down, and they continue to do so after 20 years. The media continues to rewrite press releases and look the other way as the rights of Australians are trashed and the prosperity of this country is turned upside down.

No doubt some in the media are genuinely incompetent and ignorant, and others are also victims of groupthink. The media rush to embrace the hysterical climate change beliefs is ample testimony to their gullibility and susceptibility to groupthink.

But no doubt many in the media are simply responding to the bottom line, job security. They want their pay cheque. There is no conspiracy, just short term self-interest.

Whatever the case, it is clear that we need urgent reforms to resurrect democracy, political accountability, and media independence. We are well on the way to unsustainability, but succeeding generations will pay the full price.

PART 2 – AUSTRALIAN LAWS REWRITTEN TO ENFORCE ENVIRONMENTAL RIGHTS AND REDUCE HUMAN RIGHTS & FREEDOMS

REWRITING THE LEGAL SYSTEM TO ENFORCE THE RIGHTS OF PLANTS & THE ENVIRONMENT

Agenda 21 is firmly rooted in the [Gaia philosophy](#) of the [Earth Charter](#) and Agenda 21 architects such as [Maurice Strong](#). The Gaians or earth worshippers support a [biocentric world view](#) or [ecocentric world view](#) where humans become of secondary importance to the environment and ecosystem. In other words, plants come first humans come last. This biocentric or ecocentric Gaian world view is pervasively infiltrating our legal and political systems and scientific facts no longer matter. As has been noted by Henry Lamb in [The Rise of Global Green Religion](#):

“The paradigm shift from anthropocentrism to biocentrism is increasingly evident in public policy and in the documents which emanate from the United Nations and from the federal government. Public policies are being formulated in response to biocentric enlightenment, rather than in response to scientific evidence.”

According to Bosselmann and Taylor in their essay about the [Significance of the Earth Charter in International Law](#), The Earth Charter “challenges the anthropocentric idea of justice”. The Earth Charter was initiated by [Maurice Strong](#) and [Mikhail Gorbachev](#), and was [adopted by the Australian government in 2005](#).

Anthropocentrism, the traditional basis of NSW laws (32), has now been overturned and replaced by a Gaia driven (39, 40) UN Agenda 21 ecocentric world view where the environment, and animals, reign supreme and man's place in the world is secondary (33, 34, 35, 36, 37, 38). This philosophy now forms the basis of new environmental laws and the flourishing NSW environmental legal system (25, 26). As has been noted by Pain (25, 26):

“environmental legislation has moved away from being ‘anthropocentric-and-development orientated’ towards legislation that is ‘more environment-centred’.”

In regard to an ecocentric view of property rights, Peter Burdon notes in his thesis, [Earth jurisprudence: private property and earth community](#):

“The central argument of this thesis is that the institution of private property reflects an anthropocentric worldview and is contributing to the current environmental crisis.It advocates a paradigm shift in law from anthropocentrism to the concept of Earth community. The thesis first provides an example laws anthropocentrism by exploring the legal philosophical concept of private property.It concludes that the dominant rights-based theory of private property is anthropocentric and facilitates environmental harm. The second component of the thesis explores contemporary scientific evidence supporting the ecocentric concept of Earth community. This concept argues that human beings are deeply connected and dependent on nature. It also describes the Earth as a community of subjects and not a collection of objects. Assuming that the social sphere is an important source for law, this thesis considers how a paradigm shift from anthropocentrism to ecocentrism can influence the development of legal concepts. To catalyse this shift, it considers the ‘new story’ proposed by cultural historian and theologian Thomas Berry. This story describes contemporary scientific insights such as interconnectedness in a narrative form Third, the thesis uses the alternative paradigm of Earth community to articulate an emerging legal philosophy called Earth Jurisprudence. It describes Earth Jurisprudence as a theory of natural law and advocates for the recognition of two kinds of law, organised in a hierarchical relationship. At the apex is the Great Law, which represents the principle of Earth community. Beneath the Great Law is Human Law, which represents rules articulated by human authorities, which are consistent with the Great Law and enacted for the common good of the comprehensive Earth Community. In regard to the interrelationship between these two legal categories, two points are crucial. Human Law derives its legal quality from the Great Law and any law in contravention of this standard is considered a corruption of law and not morally binding on a population. Finally, the thesis constructs an alternative concept of private property based on the philosophy of Earth Jurisprudence. It describes private property as a relationship between members of the Earth community, through tangible or intangible items. To be consistent with the philosophy of Earth Jurisprudence, the concept of private property must recognise human social relationships, include nonreciprocal duties and obligations; and respond to the ‘thing’ which is the subject matter of a property relationship. A theory of private property that overlooks any of these considerations is defective and deserves to be labelled such.”

Supporters of this world view, who believe property rights should be transferred from humans to plants and the environment, are insidiously rewriting our laws to support their bizarre world view. According to [Justice Preston, Chief Judge of the NSW Land & Environment Court](#), Earth should be run like a spaceship:

“An increasing recognition of the first law of ecology – that everything is connected to everything else²⁷ - and that the Earth’s ecosystem is, in a sense, a spaceship,²⁸ may necessitate more sweeping positive obligations on landowners. Sax argues that ‘property owners must bear affirmative obligations to use their property in the service of habitable planet’. Sax recommends that:

‘We increasingly will have to employ land and other natural resources to maintain

and restore the natural functioning of natural systems.

More forest land will have to be left as forest, both to play a role in climate and as

habitat. More water will have to be left instream to maintain marine ecosystems.

More coastal wetland will have to be left as zones of biological productivity. We

already recognise that there is no right to use air and water as waste sinks, and no

right to contaminate the underground with toxic residue. In short there will be – there

is being – imposed a servitude on our resources, a first call on them to play a role in

maintaining a habitable and congenial planet ...

We shall have to move that way, for only when the demands of the abovementioned

public servitude of habitability has been met will resources be available for private

benefits. To fulfil the demands of that servitude, each owner will have to bear an

affirmative responsibility, to act as a trustee insofar as the fate of the earth is

entrusted to him. Each inhabitant will effectively have a right in all such property

sufficient to ensure servitude is enforced. Every opportunity for private gain will have

to yield to the exigencies of a life-sustaining planet.'

Sax's call for private gain to yield to the existences of a life-sustaining planet is encapsulated in the concept of ecologically sustainable development."

[Justice Preston summarises ecocentrism thus:](#)

"Ecocentrism involves taking a nature-centred rather than a human-centred approach, where the earth is valued not as a commodity belonging to us but a community to which we belong.

Development of an earth jurisprudence requires the internalisation of ecocentrism in environmental

law. It involves listening to the earth and adapting law to ecology. It values and gives voice to the

environment. This paper surveys some ways in which environmental law can embrace ecocentrism"

The NSW government has integrated Agenda 21 and Agenda 21 related biocentric/ecocentric programs into its environmental/sustainability policies, its planning policies, its local government policies, and its education policies ([1](#), [2](#), [3](#), [4](#), [5](#), [6](#), [7](#), [8](#), [9](#), [10](#), [11](#), [12](#), [13](#), [14](#), [15](#), [16](#), [17](#), [18](#), [19](#), [20](#), [21](#), [22](#), [23](#)). The decision of the NSW government not to utilise a democratic locally designed sustainability program, but rather to import an ecocentric sustainability policy which has been designed by a foreign agency (UN), and is monitored and supervised by a foreign agency (UN), poses a fundamental and ongoing threat to the sovereignty and democracy of NSW and all of its residents. Indeed, so entrenched has Agenda 21 become that it has even infiltrated the legal system of NSW to the extent the ecocentric principles of this imported undemocratic sustainability program are frequently used to pass judgement upon, and penalise, NSW citizens ([24](#), [25](#), [26](#), [27](#), [28](#), [29](#), [30](#), [31](#), [43](#), [44](#), [45](#), [46](#), [47](#), [48](#), [49](#), [50](#)). Otherwise law abiding citizens are being dragged into court as politicians and lawyers seek to enforce their ecocentric philosophy upon ordinary people.

How is this possible? How can any democratic NSW government permit an undemocratic foreign agency such as the UN to attack the human rights, particularly property rights, of NSW residents by legislating to enforce the ecocentric dictates of the UN?

This new environment centred ecocentric philosophy or environmental ethics ([41](#), [42](#)) has led to an explosion in both the complexity and number of new environmental laws ([25](#)) and these laws are increasingly being undemocratically used by State and local government to override and erode property rights of NSW landholders ([50](#), [51](#), [52](#), [53](#), [54](#), [55](#), [56](#), [57](#), [79](#), [80](#), [81](#), [82](#), [83](#), [84](#), [85](#)).

The decline of anthropocentrism and the rise of modern environmentalism is creating a future where basic human rights, including the right to private property, will be challenged on environmental grounds. Not only the rights of plants and ecosystems, but also the rights of future generations will be utilised to justify removal of the human rights of the present generation. We can

therefore look forward to a future where fundamental human rights will be considered secondary to the rights of the “environment” and persons who do not exist. According to [Justice McClellan](#):

“It cannot be assumed that environmental law and the role of the Land and Environment Court will be free of controversy in the future. Some of the issues which the Court must deal with raise questions of fundamental human rights. All of them affect the lives of some or a group of people in our community. Many will involve very substantial money profits or losses to individuals or corporations. The court must contribute to the task of balancing the immediate needs of the present generation with the trust we hold for those who will come after us.”

Increasingly, the rights of private land owners are being eroded under the guise of environmental concerns, the UN biodiversity programme and Agenda 21, and the principles of distributive justice and intergenerational justice. According to Gerry Bates at the [Conference on Rural Land Use Change](#):

“Government has progressively moved to wrest management of natural resources away from private control and unlimited public access. It is common now for water, fish and biodiversity to be vested in and controlled by the Crown*. Legislation then creates government authorities charged with the task of managing these resources, and implementing and enforcing the statutory scheme. Environmental restrictions imposed by legislation, of course, cut across common law rights; but centuries of legal and cultural tradition that support the pre-eminence of the rights of private landowners cannot be easily overcome; and such rights still have a considerable influence on the development of environmental policy and therefore of environmental law. The governmental approach to environmental management and protection has had to be applied in the context of a social system, supported by the common law, that hitherto placed few restrictions on the exploitation of natural resources by private landowners.”

*Emphasis added

Agenda 21, which all levels of government continue to enthusiastically embrace, is an undemocratic biocentric/ecocentric United Nations designed and monitored program ([58](#), [59](#), [60](#), [61](#), [62](#), [63](#), [64](#)), which is being banned overseas because of its fundamentally undemocratic regressive nature and the threat it poses to basic human rights, including property rights ([65](#), [66](#), [67](#), [68](#), [69](#), [70](#), [71](#), [72](#), [73](#), [74](#), [75](#), [76](#), [77](#)).

It is absolutely astonishing and completely unacceptable that foreign designed and monitored biocentric/ecocentric programs such as Agenda 21 have been actively and pervasively embedded into NSW planning and legislation while residents have NEVER been given a democratic choice.

LOSS OF PROPERTY RIGHTS

Councils around the country are busy transferring property rights of landowners, piece by piece, to the plants or ‘eco system’ of which the property is comprised.

Property Rights and Putting a Price on Nature: Morality & Responsibility

The NSW government seeks to put a price on nature, a price on every blade of grass, every animal, every insect, even microorganisms and the ecosystem itself. Since the ecosystem will be valued and revalued at the whim of government, this of course, includes every rock, leaf, log, or dead tree. A dead tree or log harbouring termites after all, is an important part of the ecosystem. And the government wants the power to control the value of all these components of nature. This clearly is a full out frontal attack on private property, the rights of all land holders ([86](#), [87](#), [88](#), [89](#), [90](#), [91](#), [92](#), [93](#)). It is unjust, immoral, and fundamentally anti-Australian.

This aspect has recently been addressed by David Leyonhjelm in an article entitled ([88](#)) **“Property rights gone for the ‘general good’.**” According to Leyonhjelm ([88](#)):

WHEN the great William Blackstone codified the English common law in the 1760s, he placed great significance on property rights.

[In his view:](#)

‘So great moreover is the regard of the law for private property, that it will not authorize the least violation of it; no, not even for the general good of the whole community.’

Although they are among the inheritors of the common law, farmers have watched in dismay as their property rights have dwindled in the face of government encroachments, always defended as for the “general good of the whole community”. The rain that falls on their property may now comprise part of the water rights owned by someone else. There are major restrictions on the subdivision of land for lifestyle blocks. Riparian rights and biodiversity corridors reduce property options. Mineral rights are owned by the Crown, allowing others to explore without permission.

Justin Jefferson has also acknowledged the threat to private property posed by the NSW Native Vegetation Act ([87](#)):

“For starters, here in the Monaro the overwhelming effect of the Act in practice is actually to promote the spread and restrict the fighting of African lovegrass. This means more weeds and less native vegetation, less biodiversity and less sustainability. So the Act is self-defeating. It can't justified be even in its own terms.

But it gets worse. The Act simply

- 1: ASSUMES that all property should and does belong to the state;*
- 2: ASSUMES that the state knows best in all and any decision-making; and it;*
- 3: ASSUMES that social co-operation based on force and threats and central planning is intrinsically better than social co-operation based on consent and freedom and property.*

All these assumptions are wrong and offensive. They have been disproved both in theory and in practice over and over and over again at enormous cost in human suffering. The Act reverses the onus of proof: you're guilty until proven innocent. It authorises intrusive search without a warrant. It abolishes the right to silence: it compels you to incriminate yourself. It authorises evidence by executive decree. It effectively confiscates freehold property rights without compensation in breach of the Constitution. The Act is oppressive and abusive.”

Of course the attack on private property rights is essentially a ecocentric transfer of the property right from the land owner to the plants or ecosystem it contains, but first of course, plants and ecosystems must be granted property rights. According to the Productivity Commission in their paper '[Creating Markets for Ecosystem Services](#)':

“Ecosystem services are the functions performed by ecosystems that lead to desirable environmental outcomes, such as air and water purification, drought and flood mitigation, and climate stabilisation.....In theory, governments can create a market for an ecosystem service by defining a new property right that is both linked to the ecosystem service and can be exchanged for reward.”

As has recently been pointed out by Lorraine Finlay ([93](#)), the government attack on private property rights, which is occurring on many fronts, is completely at odds with frequent public statements about human rights or individual rights. The fundamental importance of private property rights in regard to human freedom have also been noted by Finlay ([93](#)):

“the protection of property rights has evolved to mean owners have the right to obtain benefits from their property, including the right to put it to productive use and to dispose of it through sale”⁸. Property rights therefore encompass “the right to own property, the right to dispose of property and the right to exclude others”⁹. Since that time leading philosophers and political thinkers have emphasized the link between private property rights and the protection of individual liberty. This was noted by Henry Maine, who claimed that the history of individual property rights and history of civilization “cannot be disentangled”¹¹. Similarly, John Adams observed that¹²:

‘Property is surely a right of mankind as real as liberty ... The moment that the idea is admitted into society that property is not as sacred as the laws of god, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence. Property must be secured or liberty cannot exist’.

This paper argues that private property rights are just as important today as in the past. The link between property rights and individual liberty remains relevant in the modern context, and the foundations for both individual freedoms and economic security may be found in private property rights. In relation to this point, it has been emphasized that¹⁹:

‘Without private property rights there is no way to check the power of the state over the individual. When the state gains control over private property rights the ability to create wealth stagnates or even declines, thereby creating poverty and misery rather than freedom and wealth’.

*There is a well established causal link between property rights and higher standards of living²¹, with the ownership of private property motivating individuals ‘to improve the productivity and value of assets in the realization that family and designated heirs may benefit from such endeavour’²². In short, ‘*the evidence is irrefutable that the protection of property rights is the key to wealth accumulation and secure and stable societies’²³.”*

But in spite of the fundamental importance of private property rights, the NSW government is busily involved in plotting against landholders and tying their properties up in so much green tape they become unusable and worthless ([86](#), [87](#), [88](#), [89](#), [90](#), [91](#), [92](#), [93](#)). One case in point is the disgraceful case of Peter Spencer ([93](#)). As Finlay indicates, these problems have been noted by the Productivity Commission ([93](#)):

“In the 2004 Inquiry Report into the Impacts of Native Vegetation and Biodiversity Regulations the Productivity Commission concluded that while the retention, management and rehabilitation of native vegetation and biodiversity were important objectives, “existing regulatory approaches are not as effective as they could be in promoting these objectives and impose significant costs”⁶⁴. In particular, it was concluded that the effectiveness of the clearing restrictions had been compromised, that “perverse environmental outcomes” often resulted and that landholders “... are being prevented from developing their properties, switching to more profitable land use, and from introducing cost-saving innovations. Arbitrary reclassification of regrowth vegetation as remnant and restrictions on clearing woodland thickening in some jurisdictions are reducing yields and areas that can be used for agricultural production”⁶⁵

Since the Zimbabwe experience shows exactly what happens when private property rights are lost ([93](#)), it is up to all Australian governments to respect private property rights, respect landowners, and respect freedom which is so fundamental to all Australians ([93](#)):

“If we are not able to build an environment in which the general public, politicians and government bureaucrats are all encouraged to respect and value private property rights, then we will continue to see the gradual erosion of property rights regardless of any changes that may be made to the surrounding legal framework.”

The moral acceptability of putting a price on everything (94, 95, 96) including water and the air we exhale, is clearly paving the way for putting a price on every component of nature, commonly referred to as ecological economics (97, 98). Of course the idea that a monetary value can be placed upon every animal, plant, insect, microorganism, and ecosystem is not only ridiculous, it is morally reprehensible and scientifically impossible. In fact, reducing nature to a monetary value is necessarily a move to devalue nature and give humans the ability to decide the absolute and relative worth of not only living things, but also systems. It is fundamentally and intrinsically hypocritical and contradictory to suggest that nature will become more valuable, and more readily conserved, by devaluing it and defining it in terms of human currency. According to Monbiot (97):

“The UK government’s assessment of the “value” of nature is pure reductionist gobbledegook, dressed up in the language of objectivity and reason but ascribing prices to emotional responses: prices, which, for all the high-falutin’ language it uses, can only be arbitrary. It has been constructed by people who feel safe only with numbers, who must drag the whole world into their comfort zone in order to feel that they have it under control.....The second problem is that it delivers the natural world into the hands of those who would destroy it. Picture, for example, a planning enquiry for an opencast coal mine. The public benefits arising from the forests and meadows it will destroy have been costed at £1m per year. The income from opening the mine will be £10m per year. No further argument needs to be made. The coal mine’s barrister, presenting these figures to the enquiry, has an indefeasible case: public objections have already been addressed by the pricing exercise; there is nothing more to be discussed. When you turn nature into an accounting exercise, its destruction can be justified as soon as the business case comes out right. It almost always comes out right.....This is the machine into which nature must now be fed. The National Ecosystem Assessment hands the biosphere on a plate to the construction industry. It’s the definitive neoliberal triumph: the monetisation and marketisation of nature, its reduction to a tradeable asset.”

Clearly there is no moral or scientific basis for reducing nature to a marketable commodity.

We have seen that there has been an attack on private property rights by the NSW government as they busily use the environment to tie up landholders. But is their environmental zealotry genuine, or is it just a deliberate devious land grab? What ways has the NSW government legislated to protect the rights of land owners?

The Effectiveness of Biobanking for Biodiversity

Everyone is concerned about the environment, but is the NSW government drive to control the land of private landowners really about the environment? Historically, as noted by David Leyonhjelm (88), evidence of the environmental benefits of government policies are lacking:

“The perverse thing about all this is that there is plenty of evidence to show the environment does better when it is in private hands, away from the tentacles of government. We saw that very clearly in the difference in environmental quality between the former Communist countries and the west when communism collapsed. Here at home we see uncontrolled weeds and feral animals in our government-owned national parks. Quite simply, government control is incompatible with the promotion of environmental values. And as Blackstone would say, the government should stop violating private property”.

Indeed, there is no argument that historically it is the governments at all levels who must shoulder the responsibility for degradation of the environment for it is they who have formulated the policies, permitted land development, and organised land planning and land use strategies. In fact, the

biodiversity loss and environmental situation today is the result of present and previous government policies (98). Not only have governments presided over wilful habitat destruction and poor town planning, but also they are responsible for most of the enormous environmental damage and biodiversity loss caused by invasive species (99, 100, 101, 102). According to McFadyen (101):

“In the 200 years since the arrival of Europeans, over 28,000 foreign plants have been brought to Australia, most deliberately imported for pasture, horticulture or as ornamentals. Their impact is enormous – invasive plants are the main threat to 45% of threatened and endangered species and ecosystems in New South Wales (Coutts-Smith and Downey 2006), and the cost to Australian agriculture is at least \$3.5bn per year in lost production and control costs (Sinden et al. 2004).

Further, according to the the **Australian Terrestrial Biodiversity Assessment 2008** (102), *“Invasive species and pathogens represent one of the most potent, persistent and widespread threats to Australian biodiversity.”* But what have successive government’s done about this? And how is it envisaged that biobanking and other market schemes will reverse or prevent this major threat?

Clearly the matter of invasive species alone exposes the whole biobanking/biodiversity marketing scheme as a fraud, somewhat synonymous with the idea that we can control climate by economic instruments. This is highly significant because if environmental policies or biobanking are to be just and have a sound moral basis then the system must be firmly based upon science, and be cost effective, and responsibility for environmental damage must be correctly attributed .

The matter of historical responsibility has been considered of the utmost importance when it comes to climate change and a clear precedent has been established in this regard (103, 104, 105, 106). Historical responsibility in fact, because it permits a cumulative assessment of responsibility (103), *“is one of the main lines of argument underlying the principle of common but differentiated responsibility for climate change, and the polluter pays principle more generally.”* In fact the cumulative aspect is far more important when it comes to biodiversity loss as the permanence and irreversibility are not disputed, unlike CO₂, but yet, according to Justice Preston in his address entitled **“Internalising Ecocentrism in Environmental Law:** *“This failure to deal with cumulative environmental effects is particularly encountered in the fields of biodiversity, water and climate change regulation.”*

Whether from the point of view of habitat destruction or invasive species, there is absolutely no doubt that all 3 levels of government share most of the responsibility for cumulative biodiversity loss in Australia and therefore, in keeping with a moral and just conservation program, financial penalties should be targeted accordingly.

But has biobanking or biodiversity trading been environmentally effective? What are the expectations?

Given the above, it is hardly surprising that biobanking or biodiversity trading does not have a history of positive environmental outcomes (107, 108, 109, 110, 111, 112, 113). As has been pointed out by the Productivity Commission (112):

The high scientific uncertainty associated with biodiversity conservation and salinity mitigation could mean that market creation schemes for these ecosystem services are subject to considerable sovereign risk. In particular, there may be a high probability that the property right associated with a market creation scheme would need to be changed in the future because of new scientific discoveries. This uncertainty could diminish the value of the property right and hence the likelihood that market creation would be effective. We use the term market creation to refer to government intervention to indirectly form markets for ecosystem services whose ownership cannot be enforced. Such intervention involves the definition of a new property right that is both linked to an ecosystem service

and can be exchanged for reward. A property right is an entitlement to use a particular good or service in a certain way. For example, the property right for a car entitles its owner to use the car, prevent others from using it, and to sell it to another party.”

So the government seeks to redefine every creature, plant or ecosystem as separate property rights and then value, revalue, or devalue each or all at will. But as has been pointed out by the **Clarence Environment Centre (113)**, although scientists have predicted a loss of at least 30% of world diversity due to climate change, “BioBanking proposes to lock landowners into contracts that demand biodiversity values be 'maintained or improved' in perpetuity. At the same time it is made clear that: *“If participants fail to meet their commitments under the scheme, penalties can be applied”*. **According to the CEC these requirements are bordering on fraud.**

The CEC further notes that biobanking is structured to favour developers (113) a view confirmed by Ian Cohen (114), and therefore will result in a net loss of biodiversity (113). Indeed, it must be admitted that the Act is user friendly to developers, the purpose of biobanking being to (115) **“streamline biodiversity assessment for development”**. Biobanking even offers developers (115) **immunity from legal appeals in the Land and Environment Court** and (115) *“certainty for developers and consent authorities with respect to meeting their threatened species responsibilities.”*

Landowners however, once locked into biobanking, agree to surrender extensive control of their property forever and this encumbrance, since it is automatically passed to any new land owner, would be expected to devalue the land (115):

“Biobanking agreements are registered on the land title and run with the land to bind future landowners. The agreements create a permanent legal obligation for the owner to manage the land either passively or actively, depending on the number of credits sold from the site. Agreements also restrict development, commercial and industrial uses and certain other activities on the land that may have a detrimental effect on biodiversity.”

So sweeping and pervasive are these powers that land owners even lose control of the rocks and dead trees on their property (115). Since the emphasis is on the eco “system” rather than individual components of the system, the virtual loss of title surrendered by the land owner is considerable. And if the landholder fails to comply with these requirements there are a range of severe penalties, including an application to have the land title transferred to the Minister under Section 1270 of the **Threatened Species Conservation Act (115, 116, 117)**. The transfer of land title under Section 1270 is possible under the following circumstances (117):

“(3) An order may be made under this section only where the Court is satisfied, on the balance of probabilities:

(a) that there is a serious risk to the biodiversity values protected by the biobanking agreement because of the contravention by the person, or

(b) that there is no reasonable likelihood of the person complying with the obligations imposed by the biobanking agreement, or

(c) that the person has previously committed frequent contraventions of the biobanking agreement, or

(d) that the person has persistently and unreasonably delayed complying with the obligations imposed by the biobanking agreement.

(4) If the Court makes the order requested, the Court may impose such conditions on the conveyance or transfer of the land as the Court thinks fit.

(5) Where land is conveyed or transferred to the Minister, or to a person or body nominated by the Minister, in accordance with an order made under this section, the consideration payable by the Minister, person or body, is to be determined in the same way as the compensation payable under the [Land Acquisition \(Just Terms Compensation\) Act 1991](#) in respect of an acquisition of land, but is to be reduced by the amount that, in the opinion of the Court, is equivalent to any outstanding liability of the person to the Minister arising out of contravention of the biobanking agreement.

(6) In calculating the consideration payable as referred to in subsection (5), the value of the land is to be determined having regard to the fact that it is subject to a biobanking agreement, and any increase in the value of the land attributable to anything done or omitted to be done in contravention of the biobanking agreement is to be disregarded.”

Already these proposals are tying up private land, particularly in rural areas. According to Damien Rogers, these proposals are well advanced in Eurobodalla Shire ([118](#)):

“Biodiversity Certification is basically a forced version of Biobanking. Few know about it, and fewer understand it. But it is essentially a Development Rights Credit Trading Scheme! Trading development “Credits” taken from land owners, without Just Compensation, or even a requirement to notify owners. Just like Carbon Trading, only this time designed with the cooperation of all three levels of Government (and environmental groups). It is to be run by councils, the DOP and a State Bureaucracy, called the OEH (Office of Environment and Heritage).....First councils use the “Standard Template LEP” to cover undeveloped Urban and Rural land with numerous restrictive “Overlay” maps, and new Environmental zonings, which severely restrict or stop development. As mentioned, in our Shire, these covered at least 80% (and probably more) of all the private land area of the Shire. (which is already approximately 90% state forest and national parks) Councils can then earn 25% Development Credits for land they restrict in this way. Then when owners on mainly Rural land want to build something, it triggers expensive studies, and funnels most owners into unavoidable “Perpetual Voluntary Agreements”. The more council or the OEH restrict the land, the more Credits they can earn, for perpetual agreements its more like 90%. These “agreements” must then be attached to the owners title deeds, and may now restrict the land forever..... So here is the real motive. Council, with the DOP and OEH can now control and profit from virtually all future land releases and development. As, for example, unlocking an area of undeveloped urban land, will now likely require a perpetual agreement, and/or that it to be “Biocertified” first. This involves packaging an urban area with a nearby rural area. “Taking” credits from the rural owners (now called “offset” lands). Without Just Compensation, or even a requirement to personally notify owners. Then compelling Urban land owners and developers to bargain with council or the OEH for these Development “Credits”, which were ‘taken’ from others. The deals councils and the OEH make will be in confidential contracts. As developers have pointed out, this will make the cost of new urban land very expensive. But as most Rural blocks will loose their building entitlements, or be sterilized with environmental overlays and zonings, there will be little competition or alternatives for future potential buyers. Giving Councils and the OEH total control, and in effect, a massive monopoly control over urban land development, for their own benefit! Another big plus for Councils and the OEH, is that any urban or rural land they sterilize will then plummet in value.”

COUNCILS ACT AS AGENTS FOR THE UN

Local Agenda 21, promoted by ICLEI, is designed and monitored by the UN but implemented by local Councils.

Local Agenda 21 or LA21, based upon the provisions of [Chapter 28 of Agenda 21](#), was established by the UN specifically to target local councils ([2](#), [3](#), [5](#), [7,14](#), [15](#), [18](#), [19](#), [21](#), [22](#), [23](#),). And [ICLEI](#) was established to promote Agenda 21. In fact, [Section 7.21 of Agenda 21](#), specifically recommends

involvement with ICLEI. According to Maurice Strong in the [Local Agenda 21 Planning Guide \(119\)](#), *“The task of mobilizing and technically supporting Local Agenda 21 planning in these communities has been led by the International Council for Local Environmental Initiatives (ICLEI) and national associations of local government.”* And further, [according to ICLEI](#), *“In 1991, at the invitation of Secretariat for the UN Conference on Environment and Development, ICLEI presented a draft of Chapter 28 of Agenda 21 including the mandate for all local authorities to prepare a ‘local Agenda 21’.”*

And according to the Commonwealth Government’s [“Education for Sustainability in Local Government Handbook”](#):

“One of the main supporters of the LA21 process is ICLEI – Local Governments for Sustainability, an international association of local governments and national and regional local government organisations that have made a commitment to sustainable development.”

The United Nations, in promoting its bottom up local strategy, is of course fully aware that if it is to successfully use sustainability to control people around the world, it must succeed first at the local level. According to the ICLEI/UNEP [Local Agenda 21 Planning Guide](#):

“No one fully understands how, or even if, sustainable development can be achieved; however, there is a growing consensus that it must be accomplished at the local level if it is ever to be achieved on a global basis.”

So Agenda 21 is a program, designed by the UN ([120](#), [121](#), [122](#), [123](#)). But the implementation of Agenda 21 is also monitored by the UN, participating countries being required to report back to the UN on a regular basis ([120](#), [124](#), [125](#), [126](#)). The UN describes the monitoring and reporting provisions for Agenda 21 in [chapter 38.11](#). The Commonwealth of course, provides these reports to the UN from implementation progress at state and local government levels. In fact, the United Nations [Commission on Sustainable Development](#) was established to oversee the implementation of Agenda 21 around the world ([120](#), [124](#), [126](#)). According to the Commonwealth Government in this regard ([126](#)):

“The Commission on Sustainable Development (CSD) was established by the United Nations General Assembly (UNGA) with a mandate to review implementation of the outcomes of the United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro in 1992, in particular progress in the implementation of the program of action known as Agenda 21. The CSD held its first substantive session in June 1993 and has met annually since. The 10-year review of the implementation of Agenda 21 culminated in the World Summit on Sustainable Development (WSSD) which was held in Johannesburg, South Africa (September, 2002). While the CSD successfully built a profile and improved understanding of sustainable development during its first 10 years, it was recognised at the WSSD that some reforms were required to ensure the continued relevance of its work. The WSSD Plan of Implementation (POI) called for reform of the CSD within its existing mandate (as adopted un UNGA resolution 47/191). In particular, the POI recommended :

- *Limiting negotiating sessions to every two years;*
- *Re-considering the scheduling and duration of intersessional meetings; and*
- *Limiting the number of themes addressed in each session.*

An enhanced role for the CSD in monitoring and reporting on progress in the implementation of Agenda 21 and in facilitation of partnerships was also recommended.”

Following are some of the typical United Nations land use questions the government is required to answer to check implementation of Agenda 21 at the local level (127):

“4. Agenda 21 called for the review and development of policies to support the best possible use of land and sustainable management of land resources, with a target date not later than 1996. Please describe progress that your country has made towards meeting this target.

6. Please explain briefly, to what extent are plans for expansion of human settlements reviewed with respect to the impacts on farmlands, landscape, forest land, wetlands and biological diversity.

ANNEX: OVERALL EVALUATION OF INTEGRATED APPROACH TO THE PLANNING AND MANAGEMENT OF LAND RESOURCES

The following section is designed to facilitate an overall evaluation of the progress achieved in various related activities as outlined in Chapter 10.

1. Please provide qualitative rankings on different aspects of integrated land use planning and management that your Government has been able to achieve at different levels of success since UNCED. In order to guide your answers (i.e. giving a rating to every box) the qualitative rankings are ordered on a scale from 1-5:

5 – distinguishing or outstanding achievements

4 – clear and apparent achievements

3 – only slight achievements

2 – no achievements at all

1 – worse than before UNCED

Rankings Activities

[4] Development of a national policy or strategy on integrated land management

[4] Development of policies that have encouraged sustainable land use and management of land resources

[5] Review of the regulatory frameworks related to land use and management

[4] Formulation and adoption of land use zoning

[3] Institutional set-up for monitoring land use regulations

[4] Formulation and adoption of market-based measures

[4] Information compilation and land capability analysis

[5] Identification of data gaps

[5] Identification of major challenges and issues related to the implementation of integrated land use and management approach at nation-wide level

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2. What level of importance is attached to the different functions of land in your country? Please provide qualitative ranking of the major functions or characteristics of land (i.e. give a rating to every box) on a scale from 1-4.

4 – Very high importance

3 – Highly important

2 – only slightly important

1 – not important at all

Ranking Major functions/characteristics of land

[1] Food security

[4] Rural development

[4] Rural viability

[4] Environmental sustainability (protection/recovery/rehabilitation/enhancement)

[4] Improved policies and institutions

[4] Economic development
[4] Poverty reduction and equity
[4] Social cohesion”

Councils play a vital part in this process of reporting to the UN through their reports to the State government.

COUNCIL IMPLEMENTATION OF AGENDA 21 VOLUNTARY

Councils do not have the backing of the law to force the foreign Agenda 21 program upon residents – they do so of their own initiative and because they have been bullied by state governments.

As is aptly pointed out by the Commonwealth Government in their 2006 SOE ([128](#)), there is no statutory basis for enforcing this program upon the community. According to the Commonwealth:

“Many local governments work in areas beyond statutory requirements, such as Local Agenda 21 and Cities for Climate Protection..... This can create tensions because councils and the staff they hire consider themselves to be creatures and servants of the local areas. Instead of being driven by any specific statute, local governments use state and territory laws as toolkits to fix local problems, rather than as the instruction manuals intended by state governments.”

Given this lack of legislative backing, and the decision by all levels of government NOT to seek democratic endorsement of Agenda during the normal electoral processes, the widespread adoption of Agenda 21 by Councils is alarming.

GOVERNMENT ENCOURAGES OIL/GAS COMPANIES TO TRASH THE ENVIRONMENT

Although the environment is used an excuse for these reforms, the biggest environmental vandals of all, the oil and gas industries, have been given specific legislative exemptions so they can trash the land at will.

While the powers over the private landholder are incredibly extensive, the same cannot be said for developers. Under Section 127U and 127S of the NSW Threatened Species Conservation Act, mining or petroleum activities are specifically exempted, allowing mining companies to trash the environment at will, and existing biobank contracts may be cancelled without compensation ([129](#), [130](#)):

“Nothing in this Division:

(a) prevents the grant of a mining authority or petroleum title in respect of a biobank site in accordance with the [Mining Act 1992](#) or the [Petroleum \(Onshore\) Act 1991](#) , or

(b) prevents the carrying out, on or in respect of a biobank site, of any activity authorised by a mining authority or petroleum title in accordance with the [Mining Act 1992](#) or the [Petroleum \(Onshore\) Act 1991](#) .”

127S Prospecting and mining on biobank sites

(1) The Minister may, by order published in the Gazette, vary or terminate a biobanking agreement without the consent of the owner of the biobank site if a mining authority or

petroleum title is granted in respect of the biobank site and the Minister is of the opinion that the activity authorised by the mining authority or petroleum title:

(a) will adversely affect any management actions that may be carried out on the land under the biobanking agreement, or

(b) will adversely affect the biodiversity values protected by the biobanking agreement.

(2) If the Minister varies or terminates the biobanking agreement under this section, the Minister may, by order in writing to the holder of the mining authority or petroleum title, direct the holder to retire biodiversity credits of a number and class (if any) specified by the Minister within a time specified in the order.

(3) A direction may be given to a person under subsection (2) only if biodiversity credits have already been created in respect of management actions that were carried out or proposed to be carried out on the biobank site and have been transferred to any person.

(4) The maximum number of biodiversity credits that the holder of the mining authority or petroleum title may be required to retire under the direction is the number of biodiversity credits that have been created in respect of the biobank site.

(5) A person must not, without reasonable excuse, fail to comply with a direction under subsection (2).

Maximum penalty: 10,000 penalty units.

(6) It is not an excuse for a failure to comply with a direction under this section that the person who is the subject of the direction does not, at the time the direction is given, hold a sufficient number of biodiversity credits to comply with the direction.

Note: *If the person who is the subject of the direction does not hold a sufficient number of credits to comply with the direction, the person may obtain the required number by purchasing them.*

(7) A court that convicts a person of an offence under subsection (5) may, in addition to or in substitution for any pecuniary penalty for the offence, by order direct the person to retire, in accordance with this Part, biodiversity credits of a specified number and class (if applicable) within a time specified in the order and, if the person does not hold sufficient biodiversity credits to comply with the direction, to acquire the necessary biodiversity credits for the purpose of retiring them.

(8) The owner of a biobank site is not entitled to any compensation as a result of the variation or termination of an agreement under this section.

(9) Subsection (8) does not affect any right to compensation the owner may have under the [Mining Act 1992](#), the [Petroleum \(Onshore\) Act 1991](#) or any other legislation in respect of the grant of the mining authority or petroleum title.

(10) In this section:

"conviction" includes the making of an order under section 10 of the [Crimes \(Sentencing Procedure\) Act 1999](#).

AGENDA 21 BANNED

Agenda 21 is now being banned overseas because of the threat it poses to fundamental human rights, particularly property rights ([131](#), [132](#), [133](#), [134](#), [135](#), [136](#), [137](#), [138](#), [139](#), [140](#), [141](#), [142](#), [143](#)).

Recently the following law was passed by the legislature in Alabama banning Agenda 21 ([144](#)):

Senate Bill 477

“Section 1. (b) The State of Alabama and all political subdivisions may not adopt or implement policy recommendations that deliberately or inadvertently infringe or restrict private property rights without due process, as may be required by policy recommendations originating in, or traceable to ‘Agenda 21’, adopted by the United Nations in 1992 at its Conference on Environment and Development or any other international law or ancillary plan of action that contravenes the Constitution of the United States or the Constitution of the State of Alabama.

(c) Since the United Nations has accredited and enlisted numerous non-governmental and inter-governmental organizations to assist in the implementation of its policies relative to Agenda 21 around the world, the State of Alabama and all political subdivisions may not enter into any agreement, expend any sum of money, or receive funds contracting services, or giving financial aid to or from those non-governmental and inter-governmental organizations as defined in Agenda 21.”

When the local government of College Station in Texas recently withdrew from Agenda 21, Councilman Jess Fields commented ([145](#), [146](#)):

“I am truly excited to announce that the proposed 2013 College Station budget will not include funding for this organization (ICLEI-an Agenda 21 organisation).....It is an insidious, extreme institution that does not represent our citizens, and for our taxpayers to continue to fund it would be ridiculous.... This organization is a threat to our individual rights and our local government’s sovereignty in decision-making.....ICLEI’s Charter and its Strategic Plan both reinforce what could already be surmised by examining its founding and history.....This is an international organization with an extreme environmentalist bent, which desires to impose its vision of ‘sustainability’ on the citizens of member cities and connect to the United Nations in a way that furthers that goal.....We do not need international organizations leading the way for us in how we develop our planning and development tools and regulations. It is better for policies to reflect the actual needs of our community than some amorphous concept of greenness or sustainability, promoted by an overarching international body.”

It seems that Agenda 21 is like many toxic agricultural chemicals, it is banned in America first, while Australians continue to commit suicide.

Links re Phony Environmentalism, Property Rights, & the Law

The legal system in Australia is being radically restructured in line with the distributive justice and intergenerational justice requirements of the United Nations global sustainability program ([2](#), [3](#), [62](#), [63](#), [64](#), [65](#), [66](#), [85](#), [86](#), [87](#), [88](#), [90](#), [91](#), [92](#),[93](#)).

Constitutional Vandalism under Green Cover

Professor Suri Ratnapala

<http://propertyrightsaustralia.org/speeches/suri-ratnapala/>

<http://www.samuelgriffith.org.au/papers/html/volume17/v17chap2.html>

Part 2: Great White Land Grab

<http://www.abc.net.au/radionational/programs/counterpoint/part-2-great-white-land-grab/3430722>

Legal experts call for property rights

BY MICHAEL THOMSON

<http://qcl.farmonline.com.au/news/state/agribusiness-and-general/general/legal-experts-call-for-property-rights/9040.aspx?storypage=0>

The Trading of Property Rights in Queensland For Political Power

<http://propertyrightsaustralia.org/speeches/philsheridan-pra-agm-2009/>

You are here: [Speeches](#) -> [Phil Sheridan Barrister at Law 2009](#)