



review

INFORMATION & IMAGINATION

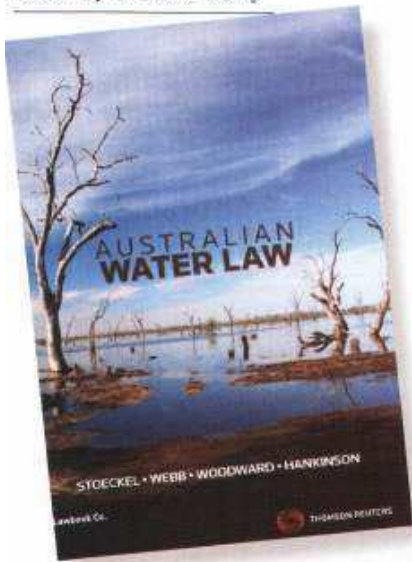
## Water laws across the jurisdictions

### Australian Water Law

Kate Stoeckel et al

Thomson Reuters, \$190

review by Dr David Leary



In its report released in 2007, the United Nations Intergovernmental Panel on Climate Change noted that climate change is expected to exacerbate current stresses on water resources. Historically, Australia has been subject to recurring drought and water shortages, notwithstanding current and recent flood events in northern NSW and Queensland. How Australian law manages our finite water resources in the era of climate change is therefore a significant issue for all Australians and, in particular, rural communities. Controversy surrounding the management of water resources in the Murray Darling Basin is but one example of the conflict that water management can give rise to in Australia, and the importance of our law and policy responses to those challenges.

The book is a very significant and timely publication. Jointly authored by lawyers from Gilbert + Tobin and the Australian Conservation Foundation, it is a thorough and useful reference work for those wanting to understand the complexity of regulation of Australia's water resources.

It covers a significant range of key issues relating to the management of water resources in Australia. It begins with an introduction and overview of the

evolution of the common law to the creation of various statutory regimes and the increasing involvement of the federal government in water regulation. It goes on to examine the evolution of water rights and water planning and management, followed by a useful examination of the rights to access and use water, as well as the various water markets that have been created across each of the Australian jurisdictions.

However, water law is more than just about accessing and allocating rights with respect to water, and the book goes into other issues, such as community water and sewerage infrastructure and services. The role of competition law in relation to water resources is examined, as well

as issues associated with environmental water flow and the role of the regulation of water in relation to ecosystem protection and integrity. It concludes with a useful chapter on water quality.

This is a significant work because it analyses in detail all of those topics across each of the state and territory jurisdictions, as well as the role played by the federal government. Particularly useful for those new to the area of water law is the liberal use of flow diagrams, maps and tables.

This book is highly recommended to all who want a comprehensive understanding of Australian water law. It will be useful to practitioners, academics and students alike. □

## In place of cynicism and drink

### Guilt

Ferdinand von Schirach

Text Publishing, \$22.95

review by Andrew Haesler SC

Last year I had the pleasure of recommending von Schirach's first book *Crime*. His second, *Guilt*, continues a series of sparse, beautifully crafted short stories from the files of a German criminal defence lawyer.

Our criminal justice system requires an emotionless examination of complex human interactions. Such behaviour must eventually be reduced to briefs of evidence and presented blandly in a courtroom. The true drama of dealing with crime and criminals can be muted. Fictional crime generally exaggerates. These 15 stories get the balance just right.

Crime can be complicated. Crime has consequences. One of them is guilt. The guilt of the perpetrator seems obvious; however, some criminals, do not, will not, or cannot, feel guilty. Some do not have the capacity to comprehend the consequences of their actions. Some just don't care. Others care too much. Lawyers aren't all that different from those they defend or prosecute. A young lawyer's response to securing the acquittal of an obviously guilty man is carefully dissected in the first story 'Funfair'.

While cynicism and drink sometimes appear to be the only valid response, I'd suggest taking time out to read this book

as a great alternative. Each story here examines the consequences that flow from court 'victories' or a drug dealer's greed, a child's false accusation or the wronged's desire for revenge. The innocent guilt of the mentally ill also leads to a last laugh.

Criminal lawyers often struggle to answer the standard BBQ question "how could you defend the guilty?". Von Schirach's neat little tales help explain why my now standard answer is, "it's complicated". □

