

Legal and Social Expectations for a Farmer's Duty of Care

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Acknowledgements

I am a husband and father, and as such have endured the torment of witnessing labour and supporting my wife through childbirth, on several occasions. Like me in the labour room, I am sure that my wife and children and extended family (and colleagues too!) have had to bear witness to my agony as I have endured the preparation of this thesis (thankfully childbirth is a more private affair). It seems fitting then to firstly acknowledge the support of my wife Jane and children; Alexandra, Oscar, Abigail and Elizabeth. The eldest children are twins and started school in my last year of my PhD. In preparation for father's day, they were asked to draw a picture of daddy doing his favourite thing. One presented me with a drawing of me at a desk in front of an open laptop, and the other of me with my briefcase heading off to university. I hope that by next father's day this perception will have changed.

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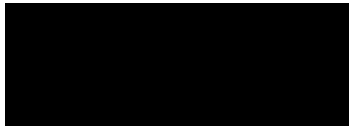
Abstract

The term 'duty of care' conceals a conflict of multiple meanings and unresolved debate about norms of environmental protection for farmers. This complexity makes clear definition of its practical meaning difficult. Despite this, a statutory duty of care is used in several Australian jurisdictions to define the environmental protection responsibilities of farmers. Such generally defined statutory duties in legislation with the lofty (and equally general) goals of achieving ecologically sustainable development are likely to lead to dispute when their practical meaning needs to be defined. In the absence of direct legal precedent it is likely that a common law interpretation of a duty of care will be utilised to give clear meaning. Dispute over interpretation of statutory duties is likely since their enforcement will probably impact the proprietary or economic interests of farmers. When this occurs it is expected that courts will become involved, and a tension will be exposed between the minimum accountability of 'reasonable care' under a common law interpretation of a duty of care, and the virtuous expectations of performance embodied within the statutory duties. This thesis uses a moot court experiment to test whether a common law interpretation will by necessity be used by courts to interpret practical meaning for a poorly defined statutory duty of care for environmental protection, and to identify what this might mean for the development of statutory duties of care for the environment.

Candidates Certification

I certify that the substance of this thesis has not already been submitted for any degree and is not currently being submitted for any other degree or qualification.

I certify that any help received in preparing this thesis, and all sources used, have been acknowledged in this thesis.



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Signature

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