

An Introduction to Earth Jurisprudence, 'Wild Law' and Rights of Nature



Michelle Maloney
National Convenor, Australian Earth Laws Alliance
SENG/Engineers Australia – Tuesday 15 October, 2013

This presentation

- ▶ Introduction to 'Wild Law' and Rights of Nature
- ▶ International and Australian movement
- ▶ What does any of this mean for engineers?



Ecological crisis



In 2005, a report compiled by over 2000 scientists from ninety-five countries concluded that:

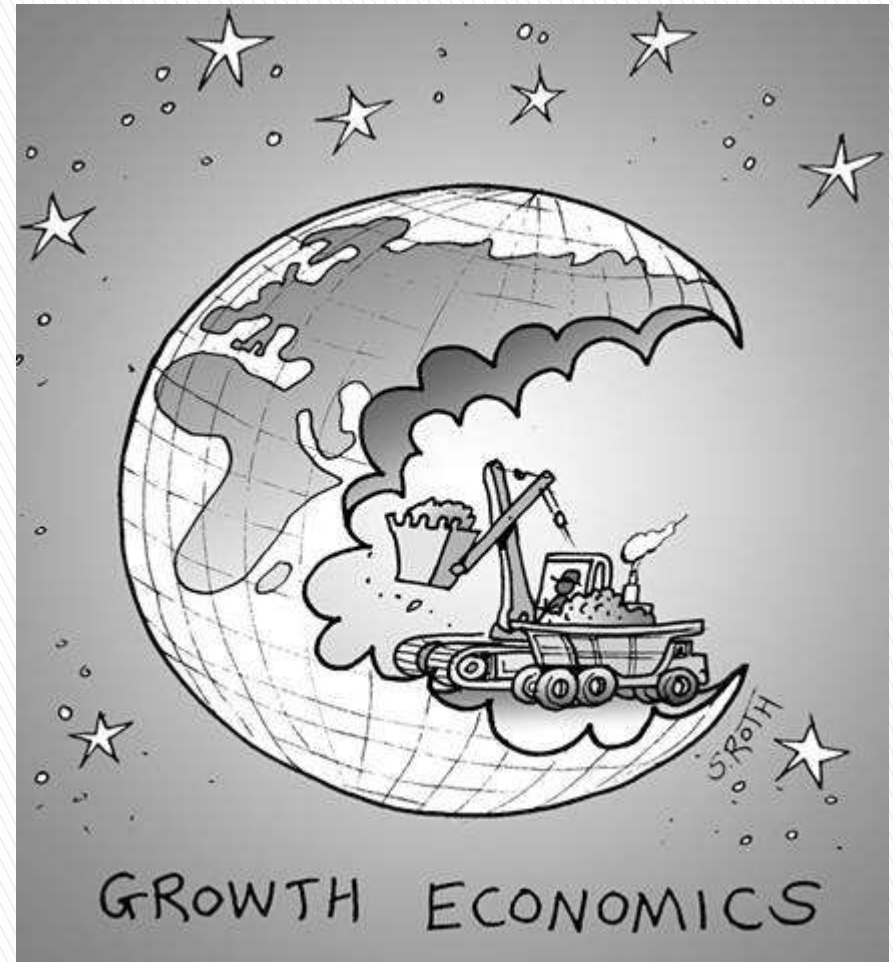
60% of global ecosystem services were "being degraded or used unsustainably" including fresh water, fisheries, air and water purification and the regulation of natural hazards and pests.

(Millennium Ecosystem Assessment, 2005)

Consuming the Earth

- ▶ We're now using 1.5 earths
- ▶ By 2030 we'll need 2 earths
- ▶ For the global population to live like North Americans, we'd need 4 planets
 - Global Footprint Network (2013)

- ▶ “Humanity has used more resources since 1950 than in all of previous human history”
 - Alan Durning ‘How Much is Enough? The consumer society and the future of the earth’ (1992)



Last month's IPCC report

- ▶ Warming in the climate system is unequivocal and since 1950 many changes have been observed throughout the climate system that are unprecedented over decades to millennia
- ▶ The atmospheric concentrations of carbon dioxide (CO₂), methane, and nitrous oxide have increased to levels unprecedented in at least the last 800,000 years.
- ▶ CO₂ concentrations have increased by 40% since pre-industrial times, primarily from fossil fuel emissions and secondarily from net land use change emissions.
- ▶ Global warming by 2100? 2%, 5% ?
- ▶ Is life possible beyond 4% warming??

Headline Statements for Policymakers, IPCC
27 September 2013

Human responses

- ▶ Current ecological crisis is pushing humanity to search for new ideas, different ways of thinking, better ways of caring for our planet
 - Science, politics, engineering and design, economics, philosophy, ethics, spirituality, law and governance



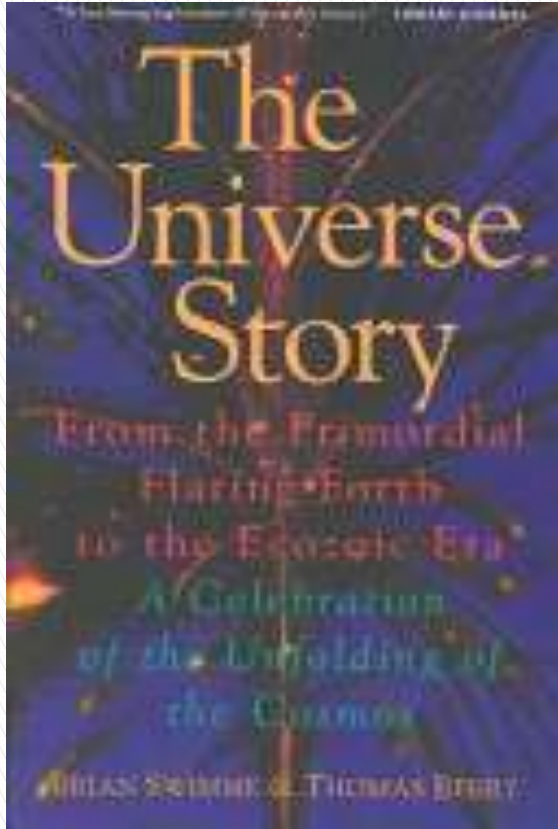
The work of Thomas Berry (1914–2009)

- ▶ Coined the term ‘Earth Jurisprudence’
- ▶ Deep ecology, earth philosophy
 - Began his career as Catholic priest
 - Cultural historian, eco-theologian/ cosmologist
 - Earth scholar
- ▶ His Legacy
 - Has inspired hundreds of thousands of people
 - Catalyst for movements around eco-spirituality
 - **Latter years, examined root problems of western governance and called for rights of nature**



Thomas Berry

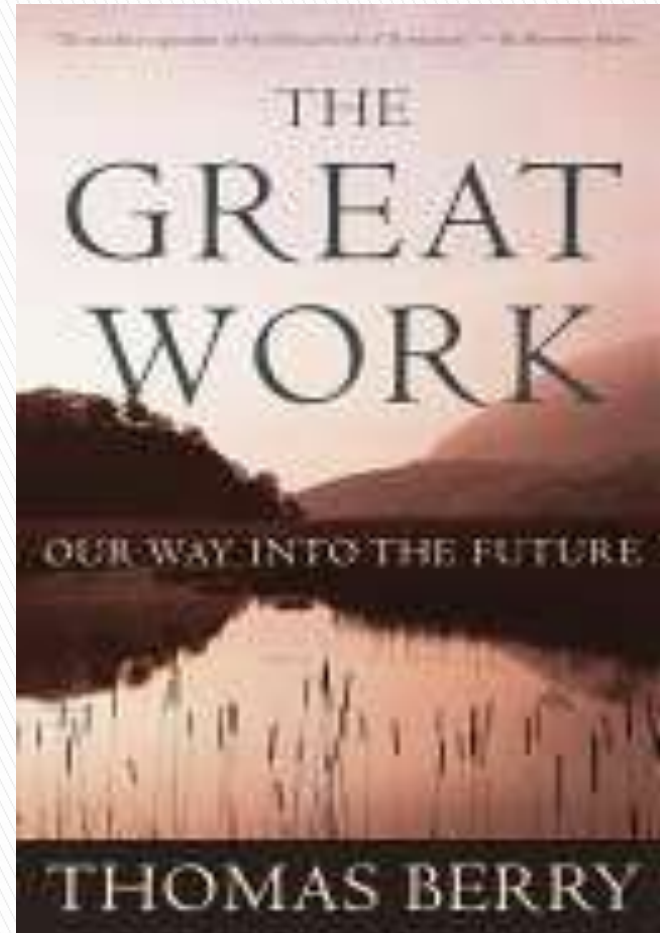
The Universe Story (1994)



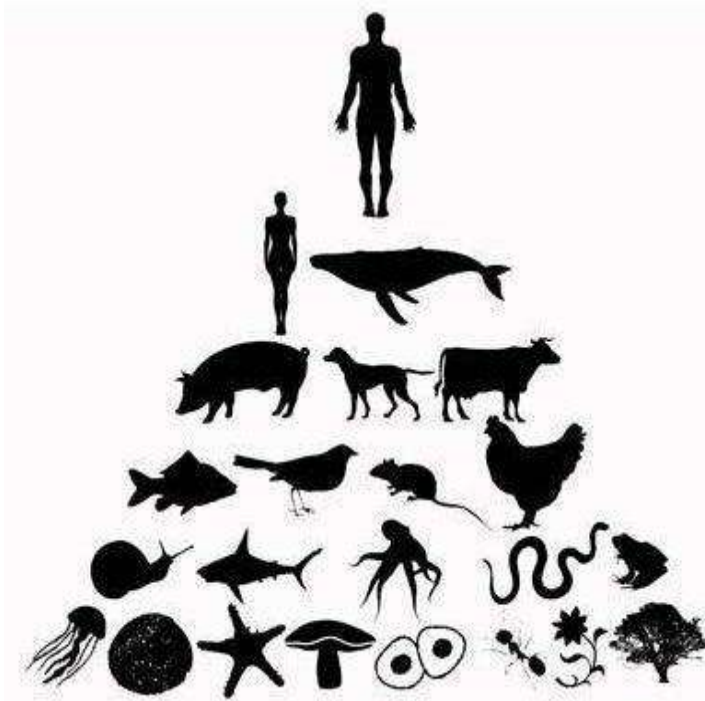
- ▶ Berry's book with mathematical cosmologist Brian Swimme – 'The Universe Story' – proposed that a deep understanding of the history and functioning of the evolving universe is a necessary inspiration and guide for humanity

The Great Work: Our Way into the Future (1999)

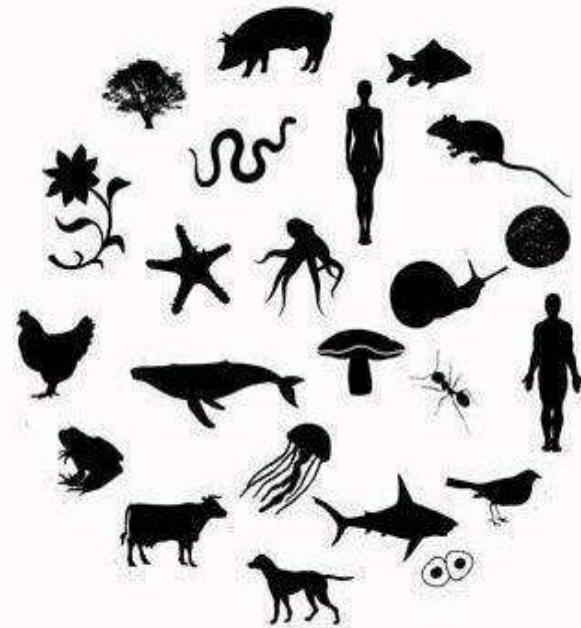
- ▶ Critique of the underpinning structures of the western industrialised world
- ▶ Anthropocentrism is an attitude that is shared (and assumed) by all four of the fundamental establishments that control human affairs:
- ▶ **Law and Government**
- ▶ **Economics** – neoliberal growth economics; power of corporations
- ▶ **Universities** – perpetuate current system, lack of critical thinking
- ▶ **Religion** – Perpetuate human dominion and alienation from nature.



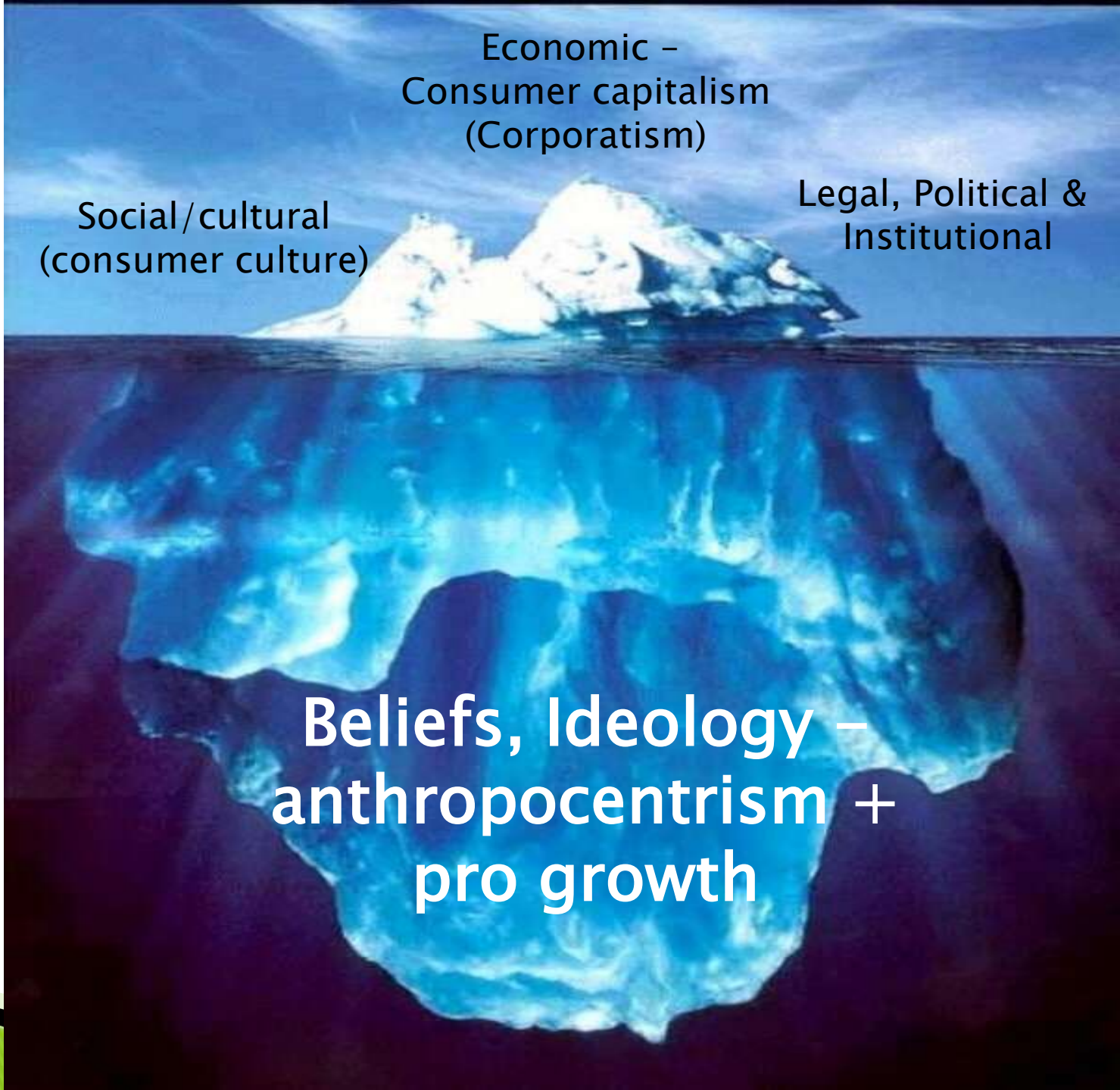
Berry called for us to shift all our **governance systems** to be ecocentric, and to nurture the Earth community



Human centred



Earth centred



Economic -
Consumer capitalism
(Corporatism)

Social/cultural
(consumer culture)

Legal, Political &
Institutional

Beliefs, Ideology -
anthropocentrism +
pro growth

Built environment

Economic -
Consumer capitalism
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Social/cultural
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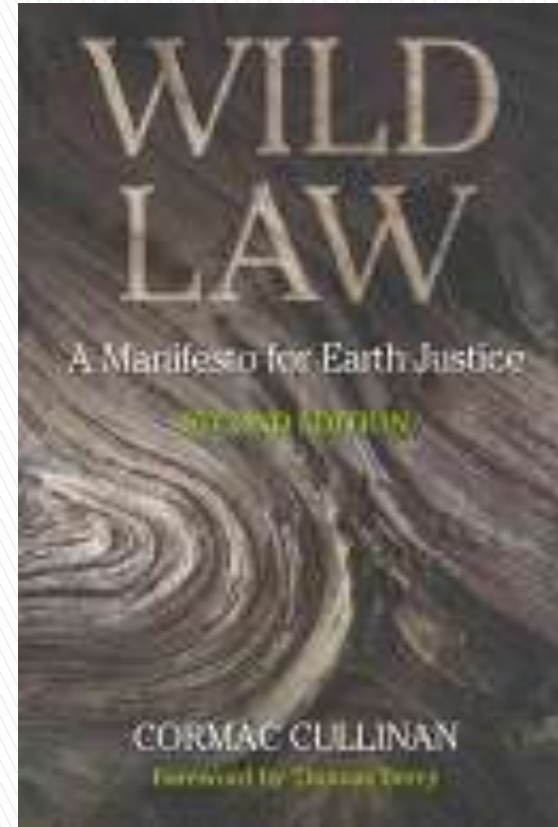


Earth jurisprudence

- ▶ Berry called for a new, earth centric governance system for humanity
 - ▶ ‘Earth jurisprudence’ – emerging theory/**philosophy of law and human governance** that is based on the idea that humans are only one part of a wider community (the Earth community) and the welfare of each member of this community is dependent on the welfare of the earth as a whole
 - ▶ Doesn’t exclude humans – just asks us to re-examine our privileged position on earth
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‘Wild Law: A Manifesto for Earth Justice’ – Cormac Cullinan (2002)

- ▶ Response to Berry’s work
- ▶ Direct call to the legal profession to embrace Earth Jurisprudence and earth-centredness
- ▶ (not just about ‘the wild’ or wilderness)



Wild laws regulate humanity in accordance with Earth Jurisprudence

- ▶ Cullinan suggests law needs to be creatively reinterpreted, allowed to be imaginative, wild; reconnected to our biophysical reality
- ▶ Looks to systems theory, quantum physics
- ▶ What can we learn from indigenous knowledge systems?
- ▶ “flashes” of wild law exist in present laws and can be built on – but we also need to rethink and create new systems



▶ Thomas Berry and Cormac Cullinan

How does Earth jurisprudence differ from existing environmental law?

- ▶ Environmental law has made great gains (eg air, water, protected areas) and has held off many destructive developments
- ▶ But despite the proliferation of environmental laws globally during 20th Century, the natural world continues to deteriorate
- ▶ → **Earth Jurisprudence argues environmental law just mitigates around the edges of the problem**
- ▶ → **permits destruction of the natural world**
 - Anthropocentrism + pro-growth economics = pro development legal framework

Elements of Earth Jurisprudence

Current western legal system

1. Human laws are the highest authority
2. Nature is a commodity for human use – property, other law reflects this
3. Rights for humans & corporations, but not natural world
4. Pro-growth ideology
5. Western legal systems often reject cultural diversity (eg frequent exclusion of indigenous knowledge and lore)

Earth Jurisprudence

1. **'Great Law'** – laws of the natural world 'higher' than human laws
2. **'Earth Community'** – community of interconnected subjects
3. **Rights of nature** (challenges power of corporations)
4. **Living within ecological limits**
5. Encourages **diversity** in human governance – cultural pluralism, indigenous knowledge, 'real' democracy

Eco-centric ideas aren't new

They're reflected in indigenous cultures worldwide.

In the west, these ideas are also present in ecology, deep ecology, ecological justice, quantum physics

Environmental law has considered eco-centric ideas before – eg Christopher Stone “Should Trees Have Standing”, Roderick Nash, Bosselmann, others

So what *is* new?



Rights of Nature – global trends

- ▶ Rights of Nature provisions
 - USA – CELDF’s work since 2001 – dozens local ordinances, first ‘county’ laws introduced last month
 - Ecuador 2008 – Constitution
 - Bolivia 2010 – Act for Rights of Mother Earth
 - **2010 Universal Declaration of the Rights of Mother Earth**
 - **30,000 people from 100 countries**
 - New Zealand – rights granted to natural systems under Treaty of Waitangi processes (Maori negotiations with Government) – eg Whanganui River granted legal personhood rights + forest ecosystem
- ▶ Also worth noting –
 - Legal recognition of non-human animals
 - Eg 2002 – Swiss Constitution recognises companion animals as living beings with legal status, not just objects (Antoine Goetschel’s trip to Australia earlier this year)
 - 2013 – India recognised legal rights of dolphins/cetaceans
 - Growing recognition of rights for non-human earthlings

Universal Declaration of the Rights of Mother Earth

▶ Article 1. Mother Earth

- ▶ (1) Mother Earth is a living being.
- ▶ (2) Mother Earth is a unique, indivisible, self-regulating community of interrelated beings that sustains, contains and reproduces all beings.
- ▶ (3) Each being is defined by its relationships as an integral part of Mother Earth.
- ▶ (4) **The inherent rights of Mother Earth are inalienable in that they arise from the same source as existence.**
- ▶ (5) Mother Earth and all beings are entitled to all the inherent rights recognized in this Declaration without distinction of any kind, such as may be made between organic and inorganic beings, species, origin, use to human beings, or any other status.
- ▶ (6) **Just as human beings have human rights, all other beings also have rights which are specific to their species or kind and appropriate for their role and function within the communities within which they exist.**
- ▶ (7) The rights of each being are limited by the rights of other beings and any conflict between their rights must be resolved in a way that maintains the integrity, balance and health of Mother Earth.

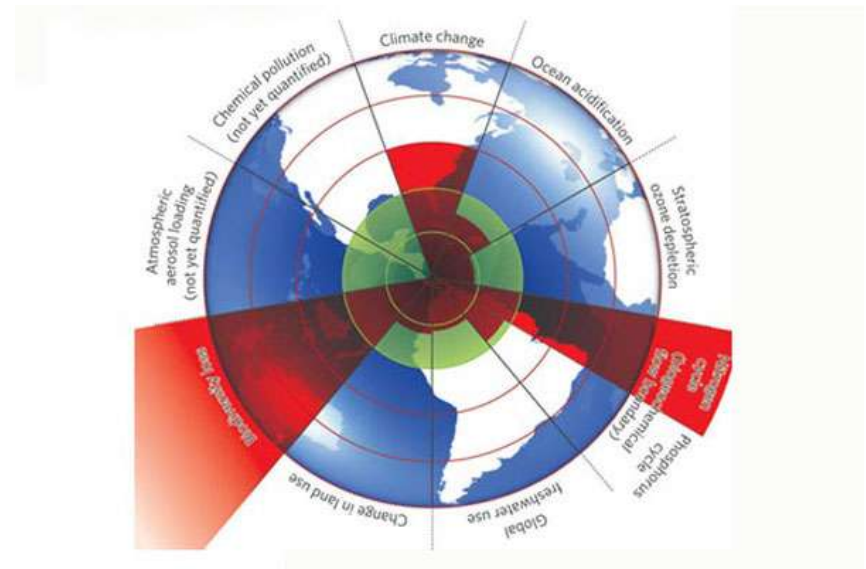
▶ <http://pwccc.wordpress.com/programa/>

‘Balancing’ rights of nature

- ▶ “Recognizing Rights of Nature does not put an end to human activities, rather it places them in the context of a healthy relationship where our actions do not threaten the balance of the system upon which we depend. Further, these laws do not stop all development, they halt only those uses of land that interfere with the very existence and vitality of the ecosystems which depend upon them.”
 - Mari Margil, “Building an International Rights of Nature Movement” in M.Maloney and P.Burdon (eds) Wild Law in Practice (forthcoming 2013)

Quick side step: benchmarks for decisions? 'Weighing'?

- ▶ Ecological integrity; health of whole system
- ▶ Which system? Local, regional, beyond?
- ▶ Interesting new developments in Earth System Science can link local, regional, planetary ecological health
 - Eg Planetary Boundaries; a framework of 9 global boundaries designed to define a 'safe operating space' for humanity
 - Holocene vs Anthropocene
 - (Steffen et al)




Nature Magazine, 2009

How are these new trends relevant to Australia?

- ▶ Growing global movement against fossil fuel extraction eg significant 'divestment' campaign
- ▶ Significant civil society actions currently underway in Australia to protect the environment
- ▶ Several communities have been in touch with AELA, interested in asserting Community and Nature's Rights to protect their local ecosystems



How is any of this relevant to engineers?

- ▶ Engineers and lawyers share similarities in terms of professional responsibilities
 - Tension between delivering a project (serving a client) and working within ethical and policy parameters
 - ▶ How might a changing legal, policy and civil society 'landscape' influence the work of engineers?
 - Respond or lead?
 - Sustainability vs ecological integrity/planetary boundaries
 - Ecological limits = questioning the status quo
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The main 'idea' behind Earth jurisprudence is that humans need to rethink their place in the world and create governance systems (law, politics, economics, daily life) that nurture the Earth community

Earth centredness is obviously much more than legal rights

- ▶ Water allocations – environmental flows; reduce the number of dams (river rights)
 - Eg first Ecuadorian Rights of Nature case – Vilcabamba Rvr
- ▶ Planning and land use – simple eg of options:
 - New suburb proposed
 - 1. cut down a forest
 - 2. ‘sensitive development’, keep as much of the forest as possible
 - 3. No new development – careful inner city redevelopment, keep the forest!
- ▶ Addressing human population issues (making room for our evolutionary companions)
- ▶ Reducing consumption/steady state economy
- ▶ ‘the inconvenient truth’ of accepting limits

Christmas Island – 120 million crabs migrate across the island every year





A red rectangular sign with a yellow border is mounted on a yellow post. The sign is supported by two black metal legs. The text on the sign is in white, bold, sans-serif capital letters. The background of the sign is a solid red color. The sign is placed on a paved road that is blocked by a yellow metal barrier. In the background, there is a dirt road leading into a lush green forest. The scene is brightly lit, suggesting a sunny day.

ROAD CLOSED
RED CRAB MIGRATION
NO ENTRY BY VEHICLES
BEYOND THIS POINT

Wild law in Australia



Australia's first Wild Law Conference – Adelaide 2009

Connected to many others and their work

- Global Alliance for the Rights of Nature – 60 organisations around the world
- Polly Higgins, 'Ecocide' and Earth Lawyers Alliance
- Indigenous networks – eg Environmental Network in the USA
- Vandana Shiva and her 'Earth Democracy' work in India
- Wild Law UK
- Earth Laws Alliance New Zealand

Australian Earth Laws Alliance

www.earthlaws.org.au

Long term vision: transforming governance systems to support, rather than degrade, the Earth community

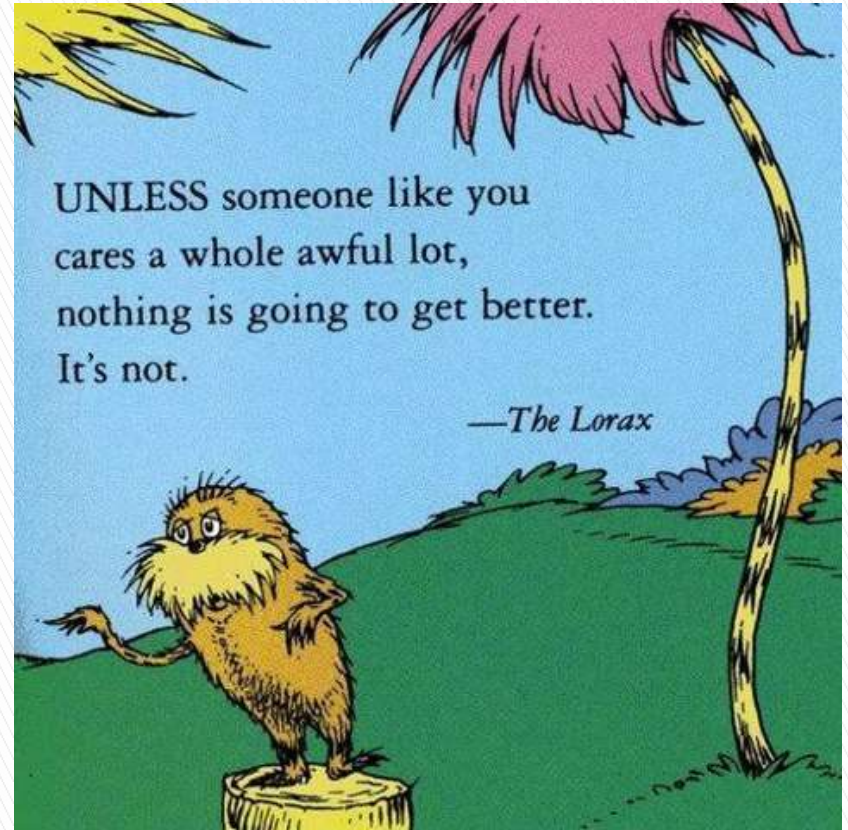
Mission – promote the understanding and practical implementation of Earth Jurisprudence

Past 18 months – awareness raising, connecting ‘National Roadshow’

Coming 18 months – exploring project and advocacy opportunities



Thank you
for your time today 😊







THIS IS A COMMUNITY TOO.