

Crisp Law Newsletter

December 2021

History of Solastalgia

In our newsletter earlier this year, we explored the concept of solastalgia and its application by the Courts. In this newsletter, we explore the origin to and meaning to the concept of solastalgia and provide predictions about its continued application in the context of administrative law decisions and hence importance of protecting our natural environment.

The Origin

Solastalgia refers to the pain or distress caused by the loss of a comforting place; the sense of desolation people feel, consciously or unconsciously, when their home or land is lost to for example road building, dam projects, deforestation and so forth.¹ The concept of solastalgia goes back to the Swiss physician Johannes Hofer, who in 1688 established the term “nostalgia” based on observations of soldiers who, he concluded, were homesick.² Later, Kriss Kevorkian coined the terms “environmental grief” and “ecological grief” in 1999.³ Further, Cunsolo & Ellis contend that ecological grief is a natural response to ecological loss, particularly for people who retain close living, working and cultural relationships with the natural environment.⁴

As more people globally experience the impact of anthropogenic activities, ecological grief is likely to increase dramatically⁵ and develop into a mental health crisis. “As our environment continues to change around us, ... how deeply are our minds suffering in return?”⁶ Glenn Albrecht, the Australian environmental researcher and philosopher, began receiving frantic calls from residents of the Upper Hunter Valley, a 6,000-square-mile region in South-eastern Australia where residents were distraught over the spread of coal mining in the Upper Hunter.⁷ What Albrecht realised during his trip to the Upper Valley was that “place pathology” wasn’t limited to natives; Albrecht’s petitioners were anxious, unsettled, despairing and depressed due to the exponential rise in the coal industry in the area.⁸ Ultimately, Albrecht’s philosophical attempt was to trace a direct line between the health of the natural world and the health of the mind.⁹

¹ Albrecht, G. A. ‘Earth emotions, New Words for a new world’ (2019) *Cornell University Press* 38.

² Handbook of Climate Psychology <<https://www.climatepsychologyalliance.org/handbook/484-what-is-solastalgia>>.

³ Ibid.

⁴ Cunsolo, A. & Ellis, N. ‘Ecological grief as a mental health response to climate change-related loss’ (2018) *Nature Climate Change* 275-281, 8.

⁵ Ibid.

⁶ Daniel B. Smith Jan. ‘Is there an Ecological Unconsciousness’ (Web Page 27, 2010)

<<https://www.nytimes.com/2010/01/31/magazine/31ecopsych-t.html>>.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

In 2003, Glenn Albrecht coined the term solastalgia, “the lived experience of distressing, negative environment change”, in particular when the environment is one that the sufferer has inhabited.¹⁰ Earlier in time fellow Australian Elyne Mitchell had published *Soil and Civilization* in 1946 which had a strong concern for the threat soil erosion poses to the sustainability of technological society.¹¹ In the context of the impoverishment of the Australian environment “But no time or nation will produce genius if there is a steady decline away from the integral unity of man and the earth; the break in this unity is swiftly apparent in the lack of “wholeness” in the individual person, divorced from his roots, man loses his psychic stability.”¹² Later, Peter Read in his book, *Returning to Nothing*, explores the experiences of people in the Australian context who were displaced or forced to migrate away from places that have been, or were about to be, obliterated.¹³ Read documents the emotion and distress of people in circumstances where their homes are lost by natural disasters.¹⁴

Application of Solastalgia in the Context of Administrative Law Decisions

The solastalgia concept came before the Courts in each *Bulga*¹⁵, *Nerringillah*¹⁶ and *Sharma*¹⁷. The relatively new concept of solastalgia was well received by the courts to articulate the recognised psychological effects of transition upon a community and its negative affect on the community. In 2021, in *Sharma*, The Court identified each of the alleged risks of harm to the Children, including but not limited to ill-health or death from “mental harm caused by solastalgia”.¹⁸ Such impacts are categorised by the applicant as “flow-on” impacts which are mediated via social, economic and demographic disruption.¹⁹ The common principle between all these cases are that the courts gave legal credence to “loss of sense of place” and other subjective indicators of community well-being. The main elements the courts considered included the social impacts of the proposed projects. In the future, the decision to approve a project may be challenged on the basis that a proposed project has clear and significant environmental and social impacts, and that the mitigation measures proposed do not adequately deal with those impacts.

¹⁰ Albrecht, G. A. (n 2) 37-8.

¹¹ Mitchell, E. ‘Soil and Civilization Sydney’ (1946) *Halstead Press*.

¹² A. Leopold ‘A Sand County Almanac’ (1949) *Oxford University Press, Sydney* 221.

¹³ Glenn Albrecht et al, ‘Solastalgia: The Distress Caused by Environmental Change’ (2007) *Australasian Psychiatry Sage Journals*.

¹⁴ *Ibid*.

¹⁵ *Bulga Milbrodale Progress Association Inc v Minister for Planning and Infrastructure and Warkworth Mining Limited* [2013] NSWLEC 48.

¹⁶ *Nerringillah Community Association Inc v Laundry Number Pty Ltd* [2018] NSWLEC 157.

¹⁷ *Sharma v Minister for the Environment* [2021] FCA 560.

¹⁸ *Ibid* 201.

¹⁹ *Ibid* 239.

Further, the exercise of a power under the former Part 3A of the EP&A Act was described by Preston CJ in *Bulga*²⁰ as involving a “polycentric” problem.

Preston CJ outlines the approach to determining a polycentric problem as follows²¹: ... first, identification of the relevant matters needing to be considered; secondly, fact finding for each relevant matter; thirdly, determining how much weight each relevant matter is to receive, and fourthly, balancing the weighted matters to arrive at a managerial decision. Forms of economic analysis, such as cost benefit analysis, which endeavour to balance different factors by use of a common, quantitative unit, such as money, assist but are not a substitute for the intuitive synthesis required of the decision-maker.²² However, if a proposed project is not in the public interest and contrary to the principles of ESD, the project will likely to be rejected by the Court.

In the Court of Appeal proceedings, in *Warkworth Mining*²³, the Court endorsed this approach and held that “Likewise, we consider that community responses to the project were relevant to the public interest.”²⁴ As his Honour pointed out, the evidence of the community responses was relevant to a consideration of noise impacts, air quality, visual impacts and more generally, the social impacts on the community.²⁵ All those factors were aspects of the overall public interest including the impacts of solastalgia.

Demonstrating that the courts have a great capacity to adapt changing social, economic and ecological requirements based on assessing and managing threats to the environment. It is expected that more frequently the concept of solastalgia will be a recourse for plaintiffs concerned by Minister and Statutory authorities’ failures to protect the environment.

²⁰ *Bulga Milbrodale Progress Association Inc v Minister for Planning and Infrastructure and Warkworth Mining Ltd* (2013) 194 LGERA 347 Preston CJ at [31].

²¹ *Ibid* 36.

²² *Ibid*.

²³ *Warkworth Mining Ltd v Bulga Milbrodale Progress Association Inc* (2014) 200 LGERA 375)

²⁴ *Ibid* 295.

²⁵ *Ibid* 430.