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EDO NSW EBULLETIN – December 1, 2017: Number 1034

The EDO NSW eBulletin is a free weekly bulletin that includes news, events, public notices and opportunities for public comment listed in our online resource [Have Your Say](#).

EDO News & Events	Court & Compliance	Law Reform & Policy Watch
Have Your Say Alerts	Community News	Support EDO NSW

EDO NSW News and Events

Legal challenge to NSW land-clearing Code



David Morris, CEO of EDO NSW, and Kate Smolski, CEO of the Nature Conservation Council of NSW.

This week we commenced legal proceedings on behalf of the Nature Conservation Council of NSW (NCC) to challenge the validity of the Native Vegetation Code 2017,

which enables private landholders to carry out large scale-clearing of native vegetation without approval or environmental assessment.

The challenge is on two grounds:

1. Failure by the Minister for Primary Industries to get concurrence from the Minister for the Environment *before* the Code was made, with the implied failure of the Minister for the Environment to act as custodian and guardian of the environment.
2. Failure of both Ministers to have regard for the internationally-recognised legal principles of Ecologically Sustainable Development (ESD), particularly the precautionary principle, the principle of intergenerational equity and the conservation of biological diversity and ecological integrity.

This is the first case to test the new provisions of the *Local Land Services Act* which allow for the making of the Code.

[Read more about this case >>](#)

Support our Environmental Defence Fund



2017 has been a big year for EDO NSW – you have no doubt seen our work on water management in the Murray-Darling, NSW land clearing laws and whaling in the news this week. 2018 is shaping up to be just as momentous.

As expert environmental lawyers, with over 30 years experience, we get results through our dynamic and multi-disciplinary approach. We rely on our donors to help us empower individuals and communities across NSW and Australia to defend their

environment. Your end-of-year gift to our Environmental Defence Fund will support us to continue all our important litigation, outreach and law reform work in 2018.

[Please make a tax-deductible donation to our Defence Fund >>](#)

[Read more about our work protecting water >>](#)

Whaling footage released under FOI – defending the public’s right to know



Sea Shepherd Australia this week released rare whaling footage obtained by EDO NSW under Commonwealth Freedom of Information laws.

The initial 2015 application for government information relating to illegal whaling practices by Japanese vessels in the Southern Ocean was refused by the Department of Immigration and Border Protection, requiring EDO NSW to press our client’s case with the Commonwealth Information Commissioner.

In May 2017, the Information Commissioner ordered the release of the documents sought by our client. Without the work of the EDO, it is likely this footage would never have been uncovered.

[Read more >>](#)

[Watch the footage on the EDO NSW Facebook page >>](#)

Law Reform and Policy Watch

Improved consultation and transparency requirements for offshore petroleum

The Minister for Resources and Northern Australia [has](#) announced a series of changes to implement the recommendations of the Offshore Petroleum Consultation and Transparency Review.

The recommendations include:

- improved public consultation on potential new offshore areas being opened up for petroleum exploration

- establishing a register of interest for stakeholders who want to be consulted on future activities
- publishing Environment Plans submitted by petroleum companies before they carry out exploration or other activities in an area, including a public notification period for the plans
- a Community Engagement program aimed at providing more information on the petroleum approvals processes for activities in Commonwealth waters.

EDO NSW has been recommending these reforms for some time - see this [previous submission](#) relating to the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) and also the [IFAW vs NOPSEMA access to information case](#).

[Read more >>](#)

Crown Lands Community Engagement Strategy

The NSW Government has extended the consultation period on its draft Crown Lands Community Engagement Strategy to Sunday 10 December 2017.

The EDO NSW submission will call for a more open and inclusive approach to engagement, with fewer exemptions. Our key recommendations on the draft Strategy are:

1. Replace the proposed “current use and enjoyment” trigger with a broader test that recognises the long-term values and significance of Crown lands
2. Community engagement and other criteria should inform impact assessment by Crown land managers
3. Significantly reduce exceptions and exemptions from community engagement
4. Engagement principles – Crown land managers should be Accountable and Responsive
5. The Strategy and the Regulation must require land managers to consider public submissions in decision-making
6. Format of the Strategy must be clear and enforceable.

[Read more about the consultation >>](#)

Recent EDO submissions and reports

- [Review of Environmental and Planning Assessment Regulation 2000 \(Issues paper\)](#) - EDO NSW submission
- [Draft Marine Estate Management Strategy 2018-2028](#) - EDO NSW submission
- [Proposed adjustment to Sustainable Diversion Limit \(SDL\) Adjustment Mechanism](#) - EDO Australia submission
- [Protected Plant Sustainable Management Plans 2018-22](#) – EDO NSW submission
- [Inquiry into the Integrity of the Water Market in the Murray-Darling Basin](#) – EDOs of Australia submission

- [Draft Technical Notes supporting Guidelines for the Economic Assessment of Mining and Coal Seam Gas Proposals](#) – EDO NSW submission
- [Draft Crown Land Regulation 2017](#) – EDO NSW submission
- [Draft management plans for Australian Marine Parks that are managed by Parks Australia](#) – EDOs of Australia submission
- [Submission on the Environmental Impact Assessment Improvement Project - Draft EIA Guidelines](#) – EDO NSW submission

Read all our law reform submissions and briefing papers [on our website](#).

New legislation introduced to Parliament

[Australian Parliament](#)

- No new relevant bills have been introduced into Parliament since the last eBulletin

[NSW Parliament](#)

- Environmental Planning and Assessment Amendment (Waste Incinerator Facilities – Residential Exclusion Zones) Bill 2017

This Private Members Bill seeks to amend the *Environmental Planning and Assessment Act 1979* to prohibit waste incinerator facilities within 15 kilometres of residential areas.

[Read the Bill >>](#)

Gazette notices

- No new relevant notices have been gazetted since the last eBulletin.

Local Environmental Plan tracking

- [Port Macquarie/Hastings](#): This proposal seeks to rezone land at Beach Street, Bonny Hills from RU1 Primary Production to R1 General Residential and E2 Environmental Conservation and amend the minimum lot size and floor space ratio maps.

To access the LEP tracking system, visit the Department of Planning and Environment [website](#), go to Current Proposals and search for 'On Exhibition'. Read more about LEPs in our [Fact Sheets](#). Visit your [local council's website](#) to see if there are any planning proposals or LEP changes open for public comment.

Have Your Say Alerts – Opportunities to Comment

This eBulletin provides alerts for opportunities to comment on changes to law and policy, and activities that may impact the environment in your area. For a comprehensive list of current opportunities to have your say on a range of environment and planning matters, visit our [Have Your Say site](#).

This online resource [also helps the community to effectively engage](#) with decision-makers and [request a workshop](#) for your community. We are always trying to improve our community resources and are currently seeking feedback on the effectiveness of Have Your Say. You can help us out by [checking out the site](#) and [completing a short three-question survey](#).

Consultations

- **Draft Crown Land Community Engagement Strategy**

The strategy sets out engagement requirements for certain dealings and activities under the *Crown Land Management Act 2016*.

The deadline for submissions has been extended by two weeks, until 10 December, 2017.

[Read more and have your say >>](#)

- **Explanation of Intended Effect for a proposed Primary Production and Rural Development SEPP package**

Changes proposed include consolidating five existing SEPPs.

The exhibition period has been extended to 15 January 2018.

[Read more and have your say >>](#)

- **Explanation of Intended Effect for a proposed Environment SEPP**

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

The exhibition period has been extended to 31 January 2018.

[Read more and have your say >>](#)

- **The Art Gallery of NSW Expansion Plans**

The Art Gallery of NSW has unveiled plans to transform the gallery through a major expansion. The working title for the project is 'Sydney Modern'.

Submissions are invited until Friday, 15 December 2017.

[Read more and have your say >>](#)

- **Burial and Cremation Rights in NSW**

Cemeteries and Crematoria NSW seeks feedback on commencing new burial and cremation interment rights covering public, private and community cemeteries.

Submissions are invited until Friday, 22 December 2017.

[Read more and have your say >>](#)

- **EPA use of Unmanned Aircraft**

The Environment Protection Authority seeks feedback on the interim guidelines on their use of unmanned aircraft, commonly referred to as drones.

Submissions are invited until 5pm Friday, 15 December 2017.

[Read more and have your say >>](#)

- **Construction Waste Management Reforms**

The Environment Protection Authority wants feedback on the proposed changes to NSW environment protection legislation concerning construction waste.

Submissions are invited until 5pm, 12 December 2017.

[Read more and have your say >>](#)

- **Draft Large-Scale Solar Energy Guideline**

The guideline considers issues around land use conflict, biodiversity and visual impacts of the solar industry.

Feedback is invited until Friday, 16 February 2018.

[Read more and have your say >>](#)

Threatened Species and Endangered Ecological Community Listings

- Tuart (*Eucalyptus gomphocephala*) woodlands and forests of the Swan Coastal Plain ecological community – Submissions are invited until Wednesday, 13 December 2017.

For a full listing of threatened species and endangered ecological community listings currently open for public comment, visit the [NSW Office of Environment and Heritage website](#) and the [Australian Department of the Environment website](#).

Fisheries assessments

- No new assessments have been placed on exhibition since the last eBulletin

For a full listing of fisheries assessments currently open for public comment, visit the

[NSW Department of Primary Industries website](#) and the [Australian Department of the Environment website](#).

Plans of Management: Invitation to comment

- **Queens Lake Nature Reserve and State Conservation Area Draft Plan of Management**

Have a say in the future management of Queens Lake Nature Reserve and State Conservation Area.

Submissions are invited until Monday, 9 April 2018.

[Read more and have your say >>](#)

The full listing of plans of management for protected areas can be viewed on the [Office of Environment and Heritage website](#). To learn more about the Plans of Management, see our [Fact Sheet on Protected Areas](#).

Major Project proposals: Invitation to comment

- [Fifield](#) – Modifications proposed to the Sunrise nickel/cobalt mine. Submissions invited until December 13, 2017.
- [Perisher Valley](#) – The proposal seeks to carry out selected rock removal over snow and construction of a fauna crossing. Submissions invited until January 15, 2018.
- [Perisher Valley](#) – The proposal seeks to carry out drainage works and construction of a rock wall and earth fill. Submissions invited until December 12, 2017

For a full listing of major project proposals currently open for public comment, visit the Department of Planning and Environment's [website](#). To learn more about the planning process for major projects, read our [Fact Sheet](#) on State Significant Development and State Significant Infrastructure.

EPBC Referrals: Invitation to comment

- [Kirknie, QLD](#) - Proposal to clear 232ha of vegetation on Byrne Valley Station within the Burdekin Shire Council Area south west of Home Hill.
- [Ripley Valley, QLD](#) - Proposal for residential development with open space, conservation and a small commercial precinct.
- [Eynesbury, VIC](#) - Proposed upgrade of the Ballan Road- Mount Mary Road intersection.
- [Bremer Range, WA](#) - Proposal to develop the Medcalf Project, located in the Lake Johnston region, approximately 470 kilometres east south-east of Perth.
- [Wellington Shire, VIC](#) – Proposal to extend the existing sealed runway at the West Sale Aerodrome, resulting in removal of 0.589ha of grassland; of which

0.485ha meets the condition threshold for the EPBC listed Gippsland Red Gum (*Eucalyptus tereticornis* subsp. *mediana*) Grassy Woodland and Associated Native Grassland ecological community.

- [Gungahlin, ACT](#) - The ACT Government proposes to extend the existing Mulligans Flat Woodland Sanctuary by constructing a new predator-proof fence enclosing most of Gorooyarroo Nature Reserve.
- [Undullah, QLD](#) - Development of a master planned community, including residential, commercial, community and associated infrastructure uses, across 2,015 hectares at Undullah Road.

Referrals under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) can be viewed on the Australian Environment Department's [website](#). To learn more, read our [Fact Sheet on the EPBC Act](#).

New Coal and Petroleum Exploration Licence Applications

- No new coal or petroleum exploration licence applications have been listed since the last eBulletin.

To view current coal and petroleum (including CSG) exploration licence applications and approvals, visit the Minerals and Petroleum [website](#). The [NSW Government Gazette](#) also contains a list of all exploration and mining lease applications and determinations. Public comment can be made on coal and petroleum (including CSG) exploration licence applications on the Minerals and Petroleum [website](#). To learn more, read the EDO NSW publication [Mining Law in NSW: A guide for the community](#).

Community News

The Biosphere Question – Sydney Ideas

Environmental historian and historical geographer Jason W Moore will challenge the theory and history offered by the most significant environmental concept of our times: the Anthropocene, literally the 'Age of Man'.

When: Thursday 7 December 2017 6:00 - 7:30pm

Where: Sydney Law School, University of Sydney

[Read more »](#)

Launch of the Women's Energy and Climate Law Network

The Women's Energy and Climate Law Network (WECLN) is a new network of female academics and practitioners working in the field of climate and energy law. The WECLN launch event will combine discussion panels with eminent energy and climate law scholars, small group sessions, mentoring sessions on careers in climate and energy law and an opportunity to input into future directions for the network.

When: Friday 8 December 2017 9:30am – 4:30pm followed by dinner
Where: Melbourne University Law School, Carlton, Melbourne

[Read more »](#)

Sustaining the Seas Conference: Fish, oceanic space and the politics of caring

Registrations are now open for the Sustaining the Seas conference, hosted by the Sustainable Fish Lab.

When: Monday 11 - Wednesday 13 December 2017
Where: University of Sydney

[Read more »](#)

Caring Better for the Seas – Sydney Ideas

This panel of academics and NGOs will look at diverse practices and politics of caring – from caring for Aboriginal and Torres Strait Sea countries, campaigns on fish and fishing, to how surfers navigate the necessity of caring for the ocean with a desire to preserve secret surf spots.

When: Monday 11 December 2017 5:00 – 6:30pm
Where: Foyer, Level 2 Sydney Law School, Eastern Avenue, University of Sydney

[Read more >>](#)

NELA Essay Competition

The NELA Essay Competition is now open, seeking essays that address issues facing Australian environmental law from undergraduate and postgraduate students at Australian universities.

Essays can be submitted until 18 December 2017.

[Read more »](#)

Law Society of NSW Women's Mentoring Program 2018

The Law Society is looking for **mentees** and **mentors** for the **Women's Mentoring Program 2018**.

The program connects women in the profession with experienced law practitioners and leaders to support, encourage and promote their career progression through a mutually beneficial mentoring relationship. Applications close 17 January 2018.

[Read more »](#)

Support EDO NSW

We need your help to keep defending our environment

EDO NSW has been providing critical legal support to communities for 30 years. We are the only legal centre in NSW specialising in public interest environmental issues. As a not-for-profit, non-government organisation, we rely on your support to help fund our programs and services.

Your help is vital to ensuring that community groups and individuals across Australia and the South Pacific have access to environmental justice.

[Find out more here »](#)

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