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EDO NSW EBULLETIN – 15 December 2017: Number 1036

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

Landmark PNG deep seabed mining case



Coastal communities in Papua New Guinea have launched legal proceedings against the PNG Government to obtain key documents relating to the licensing and environmental impacts of the Solwara 1 deep seabed mining project. The Centre for Environmental Law and Community Rights (CELCOR), our key partner organisation in PNG through our International Program, is representing four plaintiffs who seek to understand whether the project was approved lawfully and what its environmental, social, cultural and economic impacts are likely to be.

These are landmark proceedings – this is the first case relating to the world’s first commercial deep seabed mine. It is also one of the first public interest, access to information cases brought under the PNG Constitution, as PNG does not have freedom of information laws.

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

Reform package for water management in NSW

Following years of work by EDO NSW on water regulation and compliance, particularly in the Murray-Darling Basin, we are pleased to see that the NSW Government [has today announced](#) a comprehensive reform package for water management in NSW.

This package reflects many of the recommendations [consistently put forward](#) by the EDO NSW Policy and Law Reform team for systemic reform, including improving transparency and accountability and establishing a strong well-resourced compliance and enforcement regime. We look forward to seeing further regulatory detail as the much-needed reforms are implemented.

We welcome improved oversight and governance with the establishment of the Natural Resources Access Regulator (NRAR) by the NSW Parliament in November 2017, with the new Board including former EDO NSW Principal Solicitor, Ilona Millar.

EDO NSW looks forward to working with the new Lands and Water division of the Department of Industry to ensure that our precious water resources are managed sustainably and water laws are upheld by all users, to ensure the long-term health and viability of Australia's most important river system.

[Read our policy and law reform work on water >>](#)

Conservation on private land – updated fact sheet



Photo: David Lee.

EDO NSW has updated our fact sheet on conservation on private land in NSW, following the change in the law in August 2017.

This fact sheet provides information on the three types of private land conservation agreements under the new laws. It also sets out the law that continues to apply to private conservation mechanisms that were in place before August.

[Go to our updated fact sheet >>](#)

2017 has been a big year for us – 2018 will be even bigger!



From water management in the Murray-Darling to coal mining and CSG, Aboriginal culture and heritage to land clearing, biodiversity and native vegetation, 2018 is shaping up to be a busy year for EDO NSW.

We'll continue our vital work across the spectrum of environmental law for a range of clients, including individual farmers and concerned residents, community groups and large environmental organisations – providing direct support, legal advice and education; gaining access to information; forensically examining environment and planning laws; facilitating expert scientific evidence; and bringing rigorously researched cases to court.

[We need your help to continue this important litigation, policy and law reform and community legal education work, now and into the future.](#)

If you have already donated, thank you! If not, please consider making an end-of-year gift to our Environmental Defence Fund or joining our monthly giving group Friends of the EDO.

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

[Join the Friends of the EDO >>](#)

Court and Compliance Watch

Burwood resident fined for tree removal without consent

The NSW Land and Environment Court has fined Omar Abdul-Rahman \$50,000 and ordered him to pay the prosecuting Council's legal costs for illegally removing a tree without development consent.

Mr Abdul-Rahman was convicted of removing a mature Lemon-Scented Gum (*Corymbia citriodora*) without seeking development consent from Burwood Council. The tree was located within a heritage conservation area and Burwood Council's local environment plan requires development consent be granted by Council prior to the removal of trees such as Lemon-Scented Gums in heritage conservation areas.

[Read more »](#)

Roseville man fined for tree removal without consent

The NSW Land and Environment Court has fined Parviz Rahmani \$60,000 and ordered him to pay the prosecuting Council's legal costs for illegally removing trees contrary to development consent requirements.

Mr Rahmani was convicted of removing three mature trees which were required to be retained under a development consent granted by Willoughby City Council. Mr Rahmani had a tree removal contractor remove the trees contrary to the requirements of the development consent granted by the Council.

[Read more »](#)

Sydney Water fined for sewage overflow

The NSW Environment Protection Authority (EPA) has fined Sydney Water \$30,000 for a sewage overflow event at North Head Sewage Treatment Plant near Manly.

In March 2017, 238,000 litres of untreated sewage were discharged from the Sewage Treatment Plant while maintenance work was being conducted. The EPA found that the overflow occurred despite detection of an imminent overflow by an automated alert system and multiple warning alarms. Although the environmental impacts in this case were not severe, the EPA found that the overflow was large and preventable.

[Read more »](#)

Port operator fined for air pollution

The EPA has fined Quattro P RE Services Pty Ltd \$15,000 for failing to properly operate a fumigation system resulting in air pollution.

Quattro operates a fumigation system using methyl bromide at their grain export terminal at Port Kembla. On 7 June the level of methyl bromide emitted from a silo exceeded Quattro's licenced limit. An alarm was triggered, however Quattro did not respond to the alarm and the exceedance continued for seven hours until staff arrived on site. Another exceedance occurred on 20 June for a shorter time period. Quattro was also fined \$15,000 in July 2016 after exceeding its licenced methyl bromide limit in April 2016.

Methyl bromide is a hazardous and ozone depleting substance. Although the environmental impacts in this instance were not significant, the enforcement action reflects the risks posed by methyl bromide.

[Read more »](#)

Infrastructure company fined for water pollution

The EPA has fined Acciona Infrastructure Australia Pty Ltd \$15,000 for polluting Williamson Creek in the Nambucca Heads area.

Acciona illegally discharged sediment laden water into the creek in breach of its environment protection licence and section 120 of the *Protection of the Environment Operations Act*. Sediment laden water can smother aquatic plants, kill marine life and impact on the overall health of creeks and waterways.

[Read more »](#)

Law Reform and Policy Watch

Recent EDO submissions and reports

- [Community Engagement Strategy Crown Land Management Act 2016](#) – EDO NSW submission
- [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

- *Aboriginal Land Rights (Northern Territory) Amendment Bill 2017*

This Government Bill adds areas subject to traditional land claims in the Kakadu region in the Northern Territory (Kakadu Land) to Schedule 1 of the *Aboriginal Land Rights (Northern Territory) Act 1976*. The effect of this would be that the Kakadu Land would be eligible to be granted as Aboriginal land. The Bill would also provide for the leaseback of the Kakadu Land to the Director of National Parks. The Bill is awaiting its second reading.

[Read the Bill >>](#)

- *Great Barrier Reef Marine Park Amendment (Authority Governance and Other Matters) Bill 2017*

This Government Bill would amend the *Great Barrier Reef Marine Park Act 1975* to change the governance size and structure of the Great Barrier Reef Marine Park Authority, and strengthen requirements for appointment and termination of members.

[Read the Bill >>](#)

NSW Parliament

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

Local Environmental Plan tracking

- **Manly:** This proposal seeks to make various amendments to Manly LEP 2013 to resolve anomalies in the maps and the written instrument.

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 National Recovery Plan for the Murray Hardyhead (Craterocephalus fluviatilis)**

The Australian Government Department of the Environment and Energy is inviting interested groups and individuals to provide comment on research, management and other actions to assist the species throughout its range.

Submissions are invited until Friday 19 January 2018.

[Read the Notice >>](#)

- **Murrah Flora Reserves Draft Working Plan**

The Office of Environment and Heritage is seeking feedback on the Murrah Flora Reserves Draft Working Plan.

In 2016 the NSW Government dedicated state forest areas between Bega and Bermagui on the South Coast as flora reserves under the Forestry Act 2012. In a unique arrangement, the National Parks and Wildlife Service has been appointed land manager for these reserves, known collectively as the Murrah Flora Reserves.

Submissions are invited until Wednesday 31 January 2018.

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

- **Centennial Ave and Epping Road upgrade**

Roads and Maritime Services is seeking feedback on the proposal to upgrade the Centennial Avenue and Epping Road intersection by widening the road and changing the lane configuration on both Centennial Avenue and Epping Road.

Submissions are invited until Friday 15 December 2017.

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

- **Warnervale link road**

Roads and Maritime Services is investigating the feasibility of providing a link road between Wyong and Warnervale.

Submissions are invited until Wednesday 14 February 2018.

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

Threatened Species and Endangered Ecological Community Listings

- *No new listings have been placed on exhibition since the last eBulletin.*

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

- *No new plans of management have been placed on exhibition since the last eBulletin.*

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

- [Warnervale, Wyong](#) – Under this planning agreement, the developer would make a contribution of \$97,203 per hectare of net developable area for the purposes of the provision of designated State public infrastructure within the meaning of clause 6.1 of Wyong LEP. Submissions are invited until Saturday 6 January 2018.
- [Singleton](#) – This proposal seeks realignment of main headings, extension of approved longwalls (LW15-17), development of three additional longwalls (LW18-20) to the northwest in the Middle Liddell Seam and changes to ancillary surface infrastructure and water management. Submissions are invited until Thursday 21 December 2018.
- [Salt Ash](#) – This proposal seeks to increase the capacity of the approved quarry to a maximum of 400,000 tonnes per annum, modify the extraction sequencing, increase allowable truck movements off site from three (3) per hour to 3.5 per hour averaged over a working day and increase operating

hours from 7:00am to 5:00pm to 6:00am to 6:00pm. Submissions are invited until Monday 15 January 2018.

- [Badgery's Creek](#) – The modification involves the exportation of up to 275,000 tonnes of raw material per year, temporary storage of finished building products on site and changes to approved hours of operation. Submissions are invited until Thursday 21 December 2017.
- [NorthConnex](#) – A proposed modification to Condition B2 of the NorthConnex project SSI approval to clarify the ventilation outlet elevations, as described in the modification request. Submissions are invited until Friday 22 December 2017.
- [Alexandria Park Community School](#) – Redevelopment of Alexandria Park Community School to cater for up to approximately 1,000 primary school students and up to approximately 1,200 secondary school students. Submissions are invited until Wednesday 31 January 2018.

For a full listing of major project proposals currently open for public comment, visit the NSW 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

- [Nhulunbuy, NT](#) – Progressive clearing of native vegetation and extraction of approximately 5.5 Million (M) m³ of earth materials, comprising topsoils and sandy and sandy-clay substrates, over a period of 15 years
- [South-West Merredin, WA](#) – Stellata Energy Pty Ltd proposes the establishment of a 100MW DSOC (Declared sent out capacity) solar farm approximately 5 kilometres south-west of Merredin, WA. The proposed farm will comprise approximately 400,000 tracking solar panels and associated infrastructure.
- [Landsdale, WA](#) – Development will involve the clearing of approximately 0.30 ha of combined Banksia Woodlands TEC and potential Black Cockatoo foraging habitat. In addition to an EPBC Referral to address Matters of National Environmental Significance (MNES), a Native Vegetation Clearing Permit (NVCP) will be required to clear native vegetation within the Project Area and will address matters of State importance.

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

Sydney Lawyers Orchestra – Christmas Concert

The Sydney Lawyers Orchestra invites you to a Christmas concert. For any queries, contact thomas.jones@twobirds.com.

When: Monday 18 December 7pm

Where: Ferguson Hall, St Stephens Uniting Church, Sydney

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 Monday 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 Wednesday 17 January 2018.

[Read more »](#)

2018 Environmental Law Symposium

The Legal Practice Section of the Law Council of Australia will be hosting the 2018 Environmental Law Symposium at the NSW Law Society.

The event will include a special presentation honouring the contribution of Justice Murray Wilcox AO QC to environmental jurisprudence in Australia.

When: Thursday 19 April 2018 11:45am – late (dinner)

Where: NSW Law Society 170 Phillip St Sydney

[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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