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EDO NSW EBULLETIN – 12 January 2018: Number 1038

A free weekly bulletin that includes news, events, notices and opportunities for public comment. These are also listed on our website in [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

Welcome to eBulletin 2018



Welcome back to our environmental law eBulletin for 2018. We left you with [David's blog post of 2017 snapshots](#). This year promises to be immense for the EDO. Our case on behalf of the Wollar Progress Association challenging the approval of extension of the Wilpinjong open cut coal mine [goes to hearing in early February](#). We will be in Court for the hearing of the Nature Conservation Council's challenge to the making of the NSW land-clearing Code [in April](#). Meanwhile, we await judgement in our client RAID Moorebank's appeal to the Land and Environment Court for protection of a critically endangered plant species at [Moorebank in western Sydney](#). We expect HSI's challenge to the Great Barrier Reef Marine Park Authority's

[approval of lethal shark programs](#) to be heard in the second half of the year. Civil enforcement proceedings in relation to allegations of [unlawful water pumping by a large-scale irrigator](#) are also underway.

We're busy on many other fronts as well, with policy and outreach work and our international program. The eBulletin will have it all throughout the year.

Sand quarry workshop at Lennox Head



Together with the community group No Sand Mine for Lennox, we will be holding a free information workshop in Lennox Head next Thursday 18 January 2018, looking at the proposed McGeary's Sand Quarry and recreation precinct.

We'll cover the DA process, steps that can be taken to protect the environment before and after developments are approved and how to influence decisions affecting the environment through law.

[Get the details »](#)

Two updated fact sheets



Our latest plain-English fact sheet describes the new regulatory framework governing the clearing of vegetation in rural areas of NSW and how this interacts with other environmental laws, including those protecting threatened species and native animals and plants.

This fact sheet will be useful for landholders who wish to clear land in rural areas and anyone concerned about land clearing activity.

We have also updated our fact sheet on conservation on private land in NSW, following the change in the law in August 2017. It 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.

[Download the fact sheet on clearing of vegetation in rural NSW »](#)

[Go to our updated fact sheet on conservation on private land »](#)

Court and Compliance Watch

Council fined for water pollution

The NSW Environment Protection Authority (EPA) has fined Clarence Valley Council \$15,000 for water pollution caused by clearing works on the banks of Christopher's Creek in South Grafton.

After heavy rain in October 2017, the EPA inspected the site and found that soil had eroded from the cleared creek banks and polluted the creek. The EPA found that erosion and sediment controls at the site were inadequate and did not meet industry standards. Although the council acted promptly to improve the site's erosion and sediment controls they remained inadequate for at least another week.

[Read more »](#)

Recycling company fined for poor waste storage practices

PAR Recycling Services (PAR) has been fined by the EPA for poor waste storage practices at their Somersby recycling facility.

During two inspections in September 2017 EPA officers observed waste stockpiles located in outdoor areas of the facility in contravention of the site's Environment Protection Licence. Gas cylinders, aluminium cans, plastic, cardboard and steel bales, and glass fragments were stockpiled outside. EPA officers also observed damaged lead acid batteries stored in an unbunded area and large amounts of sediment, glass and litter at risk of being flushed into storm water drains and street gutters.

The EPA fined PAR \$15,000 for storing waste in outdoor areas and issued a warning for the incorrect storage of waste batteries.

[Read more »](#)

Waste company fined for poor waste management practices

Solo Waste Pty Ltd has been fined \$30,000 by the EPA for a number of poor waste management practices at their Gateshead facility.

During a routine inspection of the Oakdale Road site in November, EPA officers observed stockpiles of glass and plastic waste being stored uncovered in an outside yard, poor waste practices resulting in a risk of leachate flowing into stormwater drains, plastic and paper pulp at risk of being washed into a stormwater drain and damaged bunding around an oil collection drum that would fail to adequately contain liquid in the event of a spill.

The EPA directed the company to take immediate action to improve the management of waste on site and issued two fines of \$15,000 each.

[Read more »](#)

Boating company fined for water pollution

The EPA has fined HCM Marine \$15,000 for water pollution near their marina in Port Macquarie.

Following a report to the EPA Environment Line, Port Macquarie Hastings Council officers visited the marina and found evidence of antifoul paint on the ramp of the slipway and in the waters of the marina.

[Read more »](#)

Waste company fined for water pollution

The EPA has fined Biomass Solutions Pty Ltd \$15,000 for water pollution.

An EPA investigation found that Biomass discharged leachate containing high levels of a range of pollutants including ammonia into the catchment of Boambee Creek. The leachate had the potential to cause environmental damage including harming aquatic life.

[Read more »](#)

Law Reform and Policy Watch

Primary Production and Rural Development SEPP

EDO NSW has made a submission on the Explanation of Intended Effect for the new State Environmental Planning Policy (SEPP) on Primary Production and Rural Development. Submissions are open until Monday 15 January.

The Department of Planning and Environment's proposal would revise and consolidate five rural and agricultural SEPPs into one Primary Production and Rural Development SEPP.

EDO NSW sees the in-principle benefits in ensuring planning controls are up-to-date, accessible and effective. In doing so it is also important that environmental protections and community engagement are maintained and improved, consistent with the aims of planning and environmental legislation.

Our submission considers some important issues upfront that are not dealt with, or fully dealt with, in the Explanation of Intended Effect:

- two guiding principles – on maintaining environmental protections and community engagement, and transparency in SEPP reviews and outcomes;
- how the reforms will affect land use on Environmental zones, and

- the need for closer regulation and best practice guidance for intensive plant agriculture (such as berry farming).

[Download our submission »](#)

Recent EDO submissions and reports

- [Primary Production and Rural Development proposed SEPP](#) – EDO NSW submission
- [Draft Biodiversity Conservation Investment Strategy](#) – EDO NSW submission
[Marine diversity: Beyond National Jurisdiction](#) – HSI, EDO NSW, Australian Committee for IUCN
- [Draft Greater Sydney Region Plan](#) – EDO NSW submission to Greater Sydney Commission
- [Community Engagement Strategy under the 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

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

Local Environmental Plan tracking

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

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

The eBulletin gives 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 seek your feedback on the effectiveness of Have Your Say. You can help us by [checking out the site](#) and [completing a short three-question survey](#).

Consultations

- **Voluntary Land Acquisition and Mitigation Policy and Mining SEPP**

The EPA has revised its standards for noise and air quality impacts, triggering a review by the Department of Planning and Environment of the VLAMP. After this review it is now proposed to update the Mining SEPP.

The proposed amendments are on view until Friday 16 February 2018.

[Read more and have your say »](#)

- **Affordable Housing SEPP 70**

SEPP 70 is a mechanism that allows councils to prepare an affordable housing contribution scheme for certain precincts, areas or developments associated with an upzoning. The Explanation of Intended Effect (EIE) proposes the inclusion of five councils – Randwick City, Inner West, Northern Beaches, City of Ryde and City of Canada Bay.

The EIE is on exhibition until Wednesday 31 January 2018.

[Read more and have your say »](#)

- **Water sharing plan reviews**

The Natural Resources Commission is reviewing the Water Sharing Plan for the Bellinger Area Unregulated and Alluvial Water Sources 2008 and the Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2008.

Submissions are invited until Friday 16 February 2018.

[Read more and have your say »](#)

- **Australia's Biodiversity Conservation Strategy**

The Department of the Environment and Energy is seeking feedback on this strategy and action inventory for 2018-30.

The draft revised strategy is open to public comment until Friday 16 March 2018.

[Read more and have your say »](#)

- **Clean Energy Finance Corporation**

The Department of the Environment and Energy is overseeing a statutory review of the operation of the Clean Energy Finance Corporation Act 2012. The review will consider the effectiveness of the Clean Energy Finance Corporation in facilitating increased flows of finance into the clean energy sector.

The review invites public submissions by Friday 16 February 2018.

[Read more and have your say »](#)

- **Regulation Impact Statement for a national phase out of PFOS**

The Department of the Environment and Energy has released a Regulation Impact Statement (RIS) on options for a national phase out of perfluorooctane sulfonic acid (PFOS) and related chemicals.

The consultation period closes on Monday 26 February 2018.

[Read more and have your say »](#)

- **Food derived from insect-protected cotton line**

Monsanto Australia Ltd has sought approval from Food Standards Australia New Zealand for food derived from a genetically modified cotton line.

The deadline for public comment is 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.*
- **Nominations invited:** Nominations are invited for species, ecological communities or key threatening processes to be considered for listing under national environment law during the assessment period starting 1 October 2018. Nominations close at 5pm on Friday 30 March 2018. For further information, contact the Species Information and Policy Section, by email epbc.nominations@environment.gov.au or telephone (02) 6274 2535.

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 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

- *No new major project proposals on exhibition since the last eBulletin.*

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

- [Herron, WA](#): proposal to develop a rural residential subdivision on vegetated area of mostly sheoak-jarrah-marri woodland.
- [Capel, WA](#): proposal for an urban residential development that covers Western Ringtail Possum habitat and Melaleuca woodland.
- [North Perth Basin, WA](#): proposal to conduct an onshore 3D seismic survey to assist in the search for conventional gas reserves.
- [Middlemount, Qld](#): proposal to extend the existing open cut coal pit and development of sediment dams, pipelines, haul roads, etc.
- [Mortlake, Vic](#): proposal to develop a wind farm with associated infrastructure and power line grid connections.
- [Bookham, NSW](#): proposal to create a wind farm of up to 76 turbines.
- [Coomera, Qld](#): proposal for a residential development that covers known koala trees.
- [Muchea, WA](#): proposal to develop 127ha for industrial land uses.

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](#). [Common Ground](#) is the NSW Government's online tool to help you find information about current exploration and mining activity in your area. 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](#).

Imagining a Different Future – Overcoming Barriers to Climate Justice

This multidisciplinary conference will examine the barriers to responding to climate change and implementing climate justice and propose ways forward.

When: Thursday 8-Saturday 10 February 2018

Where: University of Tasmania, Hobart

[More details »](#)

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 »](#)

2018 Mahla Pearlman Oration

The Legal Practice Section and the Environment and Planning Law Association of NSW will be co-hosting this event. The oration will be delivered by former Chief Justice of the High Court, the Honourable Robert French AC, who will be introduced by Justice Pepper.

The oration will also include the presentation of the Mahla Pearlman Australian Young Environmental Lawyer of the Year Award.

When: Thursday 19 April 2018 5:00pm – 7:00pm

Where: Federal Court of Australia, 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 over 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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