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### EDO NSW EBULLETIN – 9 February 2018: Number 1042

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

#### Wollar Progress Association v Wilpinjong Coal



*Principal Solicitor Elaine Johnson, client Bev Smiles of the Wollar Progress Association and CEO David Morris at court this morning.*

Our case, on behalf of the Wollar Progress Association, challenging the NSW Planning Assessment Commission's (PAC) decision to allow the extension of the Wilpinjong open-cut coal mine, commenced this morning in the Land and Environment Court.

This important case will test laws designed to assess the climate change impacts of mining. The NSW Government's State Environmental Planning Policy (SEPP) for mining requires decision-makers to consider the greenhouse gas emissions of mines, including 'downstream' emissions [emissions arising from the burning of product coal once sold], with regard to relevant state or national policies, programs or guidelines. Our clients argue that, in approving this mine extension, the PAC did not adequately fulfil this obligation.

This is the first case to test the efficacy of these requirements, which were designed to ensure the climate change impacts of mining are fully assessed. The proper assessment of downstream emissions is particularly important in this case because a substantial proportion of the coal from the Wilpinjong mine is planned to be burned at power stations within NSW. Under its 2016 Climate Change Policy Framework, NSW has a target of net zero emissions by 2050.

If this case is successful, the mine extension will require rigorous reassessment that properly considers the NSW Government's emissions reduction commitments. This will have implications for every state-significant coal mine or extension that goes before the PAC, requiring them to give proper consideration to the environmental impacts of coal mining.

The Wollar Progress Association is also arguing the approval is invalid on two other grounds. Firstly, that the PAC was not properly constituted in accordance with legal requirements; secondly, that the PAC did not undertake a proper assessment of the impacts on biodiversity. The mine will clear endangered ecological communities.

### **Help us respond to the threat of climate change**



*Bayswater and Liddell power stations. Photo by Brian Yap.*

Help EDO NSW respond to the threat of climate change using our policy and law reform work, community legal education and in Court.

Your support for our Environmental Defence Fund will allow us to give battlers like Bev and communities like Wollar access to environmental justice.

Make a one-off gift to our [Environmental Defence Fund](#) or become a [Friend of the EDO](#) today.

### **Tree disputes**



Our new Fact Sheet explains how the *Trees (Disputes Between Neighbours) Act 2006* applies to tree disputes.

The Act applies to trees and hedges located on private land. It does not relate to trees on public land or disputes with public authorities about tree management.

[Download the Fact Sheet »](#)

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## Court and Compliance Watch

### **Waste company fined for illegally storing waste**

The NSW Environment Protection Authority (EPA) has fined a former company director of Citilight Environment Pty Ltd \$8250 for failing to clean up building and construction waste from a Girraween property.

The waste had been unlawfully dumped at the site by Citilight across 18 months from 2011 to 2013. The EPA issued one fine of \$7500 to the former company director for failing to abide by a clean-up notice requirement that 500 tonnes of waste be removed from the property every month until fully cleared. A second fine of \$750 was issued for failing to report the transport of waste out of NSW via the EPA's Online Waste Tracking System.

[Read more »](#)

### **Canberra skull importer convicted**

A former University of Canberra student has been fined \$5,500 and placed on a two year good behaviour bond after he pled guilty to 14 charges relating to possessing and importing illegal animal remains.

The animal remains are listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Under Australian law, it is illegal to possess and import CITES-listed species without a permit.

The man appeared before the ACT Magistrates Court on charges of possessing or importing specimens including: Asian wild cat skulls, bear skulls, a gibbon skull, owl skulls, monkey skulls, a water monitor skull, hornbill skulls, a flying fox skull, a taxidermied common buzzard, a hippopotamus tooth, a bear tooth and the claw of a

medium-large cat. The man intended to sell the skulls, both at markets and in his online business.

The illegal wildlife trade is worth billions globally, with thousands of endangered animals killed every year for profit.

[Read more »](#)

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## Law Reform and Policy Watch

### Proposed new SEPP (Environment)

EDO NSW has commented on the Explanation of Intended Effect for a new State Environmental Planning Policy (Environment) (proposed SEPP).

The Department of Planning and Environment's proposal would revise and consolidate seven existing SEPPs into one Environment SEPP. EDO NSW can only support SEPP consolidation where there is no reduction of environmental protection, transparency, enforceability or accountability.

Our submission briefly identifies important issues that require clarification. It addresses: the reform context; development in environmentally sensitive areas; catchments; urban bushland; waterways.

[Download the submission »](#)

### Commencement of updated Environmental Planning & Assessment Act 1979

The NSW Government passed legislation to update the *Environmental Planning and Assessment Act 1979* (EP&A Act) in November 2017. Most changes to the Act will commence on Thursday 1 March 2018. A table of old vs new section numbers can be found [here](#). A table of estimated commencement timings can be found [here](#).

[More detailed information »](#)

### Recent EDO submissions and reports

- [New State Environmental Planning Policy \(Environment\)](#) – EDO NSW submission
- [Water Use by Extractive Industry](#) – EDOs of Australia submission
- [Primary Production and Rural Development proposed SEPP](#) – EDO NSW submission
- [Draft Biodiversity Conservation Investment Strategy](#) – EDO NSW submission
- [Marine Biodiversity: Beyond National Jurisdiction](#) – HSI, EDO NSW, Australian Committee for IUCN
- [Draft Greater Sydney Region Plan](#) – EDO NSW submission
- [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

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.

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### 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](#).

Our online resource [also helps the community to effectively engage](#) with decision-makers and [request a workshop](#) for your community.

### Consultations

- **Intercity Train Modifications**

The NSW Government is replacing the trains travelling from Sydney to Central Coast, Newcastle, the Blue Mountains and the South Coast.

Community feedback is invited by Tuesday 27 February 2018.

[Read more and have your say »](#)

### Threatened Species and Endangered Ecological Community Listings

- **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](mailto: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**

- **Toorale National Park**

The National Parks and Wildlife Service is seeking feedback on the draft plan of management for the Toorale National Park and State Conservation Area.

Submissions are invited until Monday 7 May 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**

- [Ryde](#) – Extension of building in Meadowbank Employment Area from 10 to 15 storeys.
- [Miranda](#) – Changes to ground level and signage of Miranda Dental office.
- [Kitchener](#) – Monetary contribution by developer for development near Kitchener.
- [Nulkaba](#) – Monetary contribution by developer for building of State public infrastructure in Nulkaba.
- [Thirlmere](#) – Monetary contribution by developer for development near Wollondilly.
- [Kellyville](#) – Modification of buildings and of waste collection at Seniors Living Development.
- [Lake Macquarie](#) – Monetary contributions towards costs of North Cooranbong Residential Precinct.
- [North Sydney](#) – Design changes to commercial development on Berry/Walker Street.

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**

- [Symonston, ACT](#) – Proposal to create a new permanent bund and temporary weathered rock stockpile area.
- [Yalgoo, WA](#) – Proposal to construct and operate a magnetite iron ore project, including mining.

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](#).

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## **Community News**

### **EDO Queensland Solicitor**

EDO Queensland is looking for a qualified solicitor to join the team in their Brisbane office. You will primarily be providing community legal education, with some law reform and legal advice work.

This is a six month full time position, with the potential to extend. Applications close today, 9 February 2018.

[More information »](#)

### **Centre for Sustainability Leadership's Future Makers Fellowship**

This fellowship runs from March to August 2018. Applicants can submit an Expression of Interest before February 18.

[More information »](#)

### **Women's Environmental Leadership Australia (WELA)**

This leadership program will run from April to October. The deadline for applications is Wednesday 21 February. For queries, email [welaprogram@gmail.com](mailto:welaprogram@gmail.com) or phone India on 0403 198 959.

[More information »](#)

### **Law and Gender Equality**

This WEA course offers an analysis of the law through the medium of gender, with a specific focus on women. It will discuss how a shared experience of disadvantage manifests in law by analysing the status of women in three different continents.

When: Wednesday 21 February – Wednesday 14 March 6pm-8:30pm

Where: 72 Bathurst St Sydney

[Read more »](#)

### **Climate Leadership Conference**

Over 30 of Australia's leading climate experts will present the latest best practice strategies to this conference.

When: Thursday 15 – Friday 16 March 2018

Where: Dockside, Darling Harbour, Sydney

[Read more »](#)

### **2018 Environmental Law Symposium**

The Legal Practice Section of the Law Council of Australia will be hosting the 2018 Symposium. 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 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 »](#)

### **Narratives of Climate Change Symposium**

This will be an interdisciplinary collaboration inspired by the possibility that the gap between scientific knowledge and effective political, legal and social action can be

bridged by alternative forms of narrative, including fiction, social and other media, performances of all types, visionary planning and innovative litigation.

When: Thursday 5 – Friday 6 July

Where: Newcastle Law School, 409 Hunter St, Newcastle

[Read more »](#)

## **2018 Annual EPLA Conference**

The 2018 EPLA Annual Conference will be held at Q Station, Sydney Harbour National Park, Manly. Members and friends are asked to save the following dates: Thursday 25 and Friday 26 October 2018.

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## **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 »](#)

[Make your donation online here »](#)

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