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### EDO NSW EBULLETIN – 9 March 2018: Number 1046

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

#### **Court grants protection to critically endangered plant on site of western Sydney development**



*Members of RAID Jennifer French, John Anderson and Erik Rakowski with (2nd from left) Belinda Rayment, EDO NSW Solicitor*

A rare flowering plant thought to be extinct for 200 years until found on site in 2016 has been protected from the massive intermodal development at Moorebank in a judgment this week from the Land and Environment Court.

In a win for transparency and accountability in the planning approvals process, our merits appeal on behalf of Residents Against Intermodal Development Moorebank (RAID) was able to gain substantially better protection for the critically endangered *Hibbertia fumana*, which wasn't considered when the development was approved in December 2016.

We also gained improved protection for the residents from excessive noise impacts, including requirements for trackside noise barriers along the rail link and a plan for monitoring and regulating noise, especially at night.

The developer Qube had challenged the community's right to even be heard in court.

"This is the importance of public interest environmental law personified and demonstrates the effectiveness of merits review rights in protecting the environment and improving decisions", said David Morris, EDO NSW CEO.

The Court commented that "RAID through this litigation has achieved a more stringent set of conditions which respond to many of the concerns" raised by the residents of Moorebank and biodiversity and noise experts.

[Read more about the judgment »](#)

[Read more about the case »](#)

### **EDO NSW in the news**

- [Transport hub gets green light provided rare plant gets protection](#)
- [Intermodal: Land & Development Court to slap conditions onto development](#)
- [WaterNSW reveals 'cynical' legal action as critical water report lands](#)
- [Murray-Darling water theft allegations: NSW to prosecute irrigators \[EDO NSW commenced proceedings against Harris in November 2017\]](#)
- ['Really scary': NSW environment minister warned of land-clearing leap](#)
- [NSW Police accused of holding 'illegal' training on unapproved shooting range](#)

### **Dr Emma Carmody presents on Law Reform in the Murray-Darling Basin**



*Professor Richard Kingsford, Dr Emma Carmody and Associate Professor Cameron Holley at the Global Water Institute.*

Dr Emma Carmody, Senior Policy and Law Reform Solicitor at EDO NSW, presented on *Water Management in the Murray Darling Basin: 8 challenges, 8 solutions* at the Global Water Institute, UNSW, on Thursday.

[Visit our Water Management Policy page for further detail on our recommendations for water law reform.](#)

### **An interview with Hon Justice Murray Wilcox AO QC**



A strong advocate for environmental governance, the Honourable Justice Murray Wilcox AO QC served as Foundation President of the Environmental Law Association of New South Wales, and chair of EDO NSW from 2007 to 2013.

On 19 April, the Australian Environment and Planning Group will be hosting the 2018 Environmental Law Symposium. The Symposium concludes with a special tribute acknowledging the contribution of Justice Wilcox to environmental jurisprudence.

Chair of the AEPLG and Principal Lawyer at EDO Tasmania, Jess Feehely, spoke with Justice Wilcox ahead of the Symposium.

[“I will always be proud of the role I played in establishing the Environmental Defenders Office” »](#)

### **EDO Insider MCPD seminars**

EDO NSW is pleased to offer three professional development seminars covering mandatory fields for lawyers – Substantive Law, Professional Skills and Ethics and Professional Responsibility – in the context of environmental law both in Australia and internationally.

### **[Environmental law in the South Pacific – 16 March](#)**

How can lawyers in Australia help their colleagues in the South Pacific protect the environment?



*Serua Island, Fiji. Photo by Cyrielle Randrianarivony.*

Our International Program Manager BJ Kim will discuss the Program's work building the capacity of environmental lawyers in the South Pacific, the deep-seabed mining litigation being run by our partners in Papua New Guinea and opportunities for solicitors and barristers to get involved.

### **Using professional skills to protect the marine environment – 21 March**

What tools do lawyers have at their disposal to protect the marine environment and achieve justice more broadly in administrative law processes?



*White shark. Photo by Terry Goss, Wikimedia.*

Belinda Rayment, Solicitor at EDO NSW, will discuss how professional skills, including advocacy, alternative dispute resolution and administrative and court processes, can be effectively applied to achieve outcomes. Humane Society International's Marine Scientist Jess Morris will also join the discussion.

### **Ethics and climate change litigation – 29 March**

In an environment of urgent concern, do we have an ethical obligation to use the law to try to effect the change needed to preserve a safe climate?



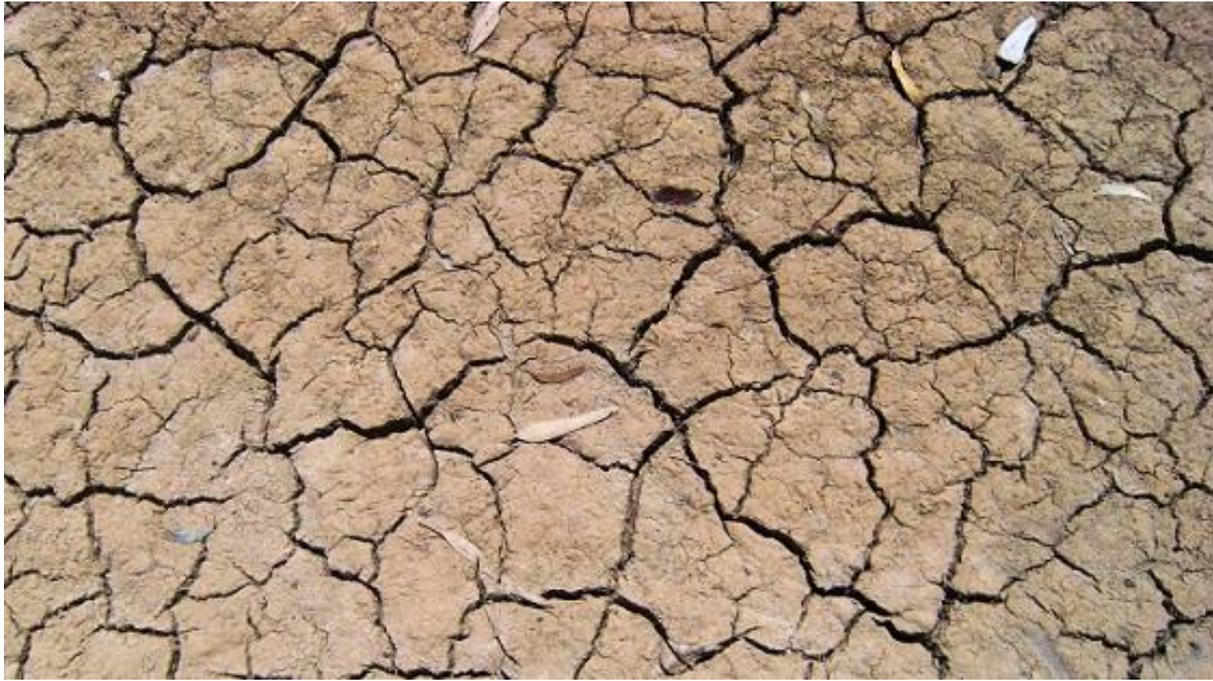
*Hazelwood power station. Photo by Mriya, Wikipedia.*

Barrister James Hutton and Elaine Johnson, our Principal Solicitor, will discuss the ethics of climate change litigation and cases being run both domestically and internationally.

*All seminars will run from 12:30-1:30pm at McCabes Lawyers, Level 38 MLC Centre, 19 Martin Place, Sydney. Cost is \$45 and a light lunch will be provided.*

*All funds raised from these seminars go towards our core work of helping the community protect the environment through law. We are very grateful to our pro bono partner McCabes for hosting these events.*

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



In the last few weeks we have been [in Court against Wilpinjong Coal on behalf of the Wollar Progress Association](#), to ensure that emissions from coal mining are properly considered by decision-makers.

In the last few months, we've highlighted the lack of analysis of the threat of climate change on the Murray-Darling Basin - a significant oversight given anticipated reductions in rainfall and inflows.

Right now we're working with some of Australia's top legal minds, developing the next generation of Australian environmental laws; focusing on environmental protection and sustainable development rather than regulated destruction.

As NSW's only public interest environmental legal centre, we rely on your generous support. Please [donate to our Environmental Defence Fund today](#). Every gift helps.

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## **Court and Compliance Watch**

### **Agribusiness fined for failing to disclose political donations**

The Land and Environment Court has fined Shoalhaven Starches Pty Ltd, a subsidiary company of the Manildra Group, \$107,000 plus costs and publication orders after the company pleaded guilty to making 30 undisclosed political donations between 2015 and 2016. The company had made five separate planning applications during the relevant period.

[Read more »](#)

### **Coal mine fined for environmental damage**

The NSW Department of Planning and Environment has fined Centennial Coal \$15,000 for damaging the Sunnyside Swamp - an important environmental area - near Lithgow's Springvale Coal Mine. The company failed to properly identify the

swamp on the Land Disturbance Permit, leading to an independent contractor causing damage to vegetation when undertaking clearing under a powerline.

[Read more »](#)

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## Law Reform and Policy Watch

### Rules for use of mine site ecological rehabilitation as an offset

EDO NSW has expressed significant concerns about the implementation of the *Biodiversity Conservation Act 2016* and associated regulations and orders. This latest proposal on the detail of how future mine rehabilitation can be counted as biodiversity offsets continues the process of undermining protection for biodiversity in NSW.

We re-iterate our opposition to the use of mine rehabilitation as an offset for biodiversity destruction. In our opinion, there is no independent, scientifically verified evidence that mine site rehabilitation can replicate the biodiversity values that are lost through mining.

Further, there are strong community expectations that any approval to undertake mining activities should be accompanied by requirements to rehabilitate the land to a pre-mining equivalent condition, quite separately to the need to compensate for the loss of biodiversity caused by the mining activity.

[Download this submission »](#)

### Recent EDO submissions and reports

- [Ancillary rules for use of mine site ecological rehabilitation as an offset](#) – EDO NSW submission
- [Improving Mine Rehabilitation in NSW](#) – EDO NSW submission
- [Regional Forests Agreements Review](#) – EDO NSW submission
- [Draft VLAMP and Mining SEPP](#) – EDO NSW submission
- [Draft Large Scale Solar Energy Guidelines](#) – EDO NSW submission
- [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

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

- **Draft Aboriginal Cultural Heritage Bill**

This draft Bill proposes a new framework for the management and protection of Aboriginal cultural heritage in NSW. The new legislation would establish a new Aboriginal Cultural Heritage Authority empowered to make regulations, policies and guidelines that provide detailed rules for how the new arrangements will work.

There will be consultation workshops around NSW throughout March:

- Narrabri – 9 March
- Queanbeyan – 9 March
- Penrith – 12 March
- Newcastle – 13 March
- Bourke – 14 March
- Gosford – 14 March
- Dubbo – 16 March
- Albury – 20 March
- Bega – 20 March
- Bathurst – 22 March
- Port Macquarie – 23 March
- Broken Hill – 26 March
- Muswellbrook – 26 March
- Griffith – 28 March
- Nowra – 28 March

There will also be a webinar on 12 March – [register here](#).

Submissions close on 20 April 2018.

[Read more and have your say »](#)

- **Management and Use of Commonwealth Environmental Water**

The House of Representatives Standing Committee on the Environment and Energy has resolved to inquire into the 2016-17 annual report of the Department of the Environment and Energy. In doing so, the Committee will inquire into and report on the management and use of Commonwealth environmental water.

The Committee will be conducting public hearings and site inspections to gather evidence from stakeholders.

Submissions are invited until Thursday 12 April 2018.

[Read more and have your say »](#)

[Recent EDO NSW submissions on water law reform »](#)

- **Remediation of Land SEPP**

The Department of Planning and Environment is seeking submissions on the Explanation of Intended Effect for the new Remediation of Land State Environmental Planning Policy (SEPP) and the Draft Contaminated Land Planning Guidelines.

Submissions are invited until 31 March 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.
- *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.*

### **Major Project proposals: Invitation to comment**

- [St Leonards Private Hospital Tower B](#) – Detailed design and construction of Tower B building – Submissions invited until 3 April 2018
- [Goolgowi Poultry Complex, Goolgowi](#) – development of intensive poultry shed and associated infrastructure – Submissions invited until 4 April 2018

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

- [Middlemount, QLD](#) – Extension of longwall mining in the German Creek coal seam.
- [West Roebuck Bay, WA](#) – Dredging and other improvements to channel at the Port of Broome.
- [Gowrie, QLD](#) – 224km long single-track dual-gauge railway with crossing loops from NSW/QLD border to Gowrie.
- [Wandoan, QLD](#) – Underground thermal coal mine and associated activities and infrastructure.
- [Beelbee, QLD](#) – Construction of a large scale solar farm located near Dalby.
- [Gogo Station Agricultural Development, WA](#) – Expansion of current agricultural development involving clearing 8,500ha for the development of surface irrigation, spray irrigation, water storages and associated infrastructure.–

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

### Aurora Project Legal Internships

The Aurora Project works closely with a range of specialists in native title, Indigenous education and the broader Indigenous sector to deliver programs and services across Australia. Applications for the winter 2018 round of legal internships close on 30 March 2018 at 5pm.

EDO NSW has just hosted an Aurora intern – William Field-Papuga – who has been assisting with our work on the NSW Aboriginal cultural heritage reforms and ongoing legal advice work for our Aboriginal clients.

[Find out 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 »](#)

### **Better Laws for a Better Planet – Symposium on the Future of Australia's Environmental Laws**

This symposium organised by the Australian Panel of Experts on Environmental Law brings together experts from across disciplines and sectors to discuss the key challenges, opportunities and directions for the next generation of environment laws to deliver genuine environmental protections.

EDO NSW CEO David Morris and Law Reform Director Rachel Walmsley will be speaking at the conference.

When: Tuesday 27 March 2018

Where: University House Hotel, Acton, Canberra

[Read more »](#)

### **2018 Future of 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 the Honourable Justice Rachel 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 – 7pm

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 2018

Where: Newcastle Law School, 409 Hunter St, Newcastle

[Read more »](#)

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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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