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### **EDO NSW EBULLETIN – 20 April 2018: Number 1052**

A free weekly bulletin that includes news, events and opportunities for public comment. These are also listed on our website in [Have Your Say](#).

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### **EDO NSW News**

#### **Challenge to approval of new longwall coal mine**



*A longwall coal mine. Photo Helen Simonsson, Creative Commons.*

On behalf of the Australian Coal Alliance (ACA), we filed proceedings this week challenging the validity of the January 2018 Planning Assessment Commission's approval of the Wallarah 2 longwall coal mine west of Wyong on the Central Coast.

In what will be an Australian first, we will bring arguments about intergenerational equity in the context of climate change before the court.

[Read more >>](#)

**Water issues**



*Irrigation of a cotton crop. Photo: Wikimedia*

A significant fraud investigation in Queensland reinforces concerns expressed by EDO NSW about the lack of transparency as well as inadequate auditing and monitoring of in-farm irrigation efficiency programs.

Additionally, EDO NSW and EDOs of Australia have made submissions this week to consultations on the NSW Water Action Plan and the Murray-Darling Basin Plan five-year review. See our Law Reform and Policy section below for those submissions.

[Read this blog post by Dr Emma Carmody >>](#)

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

- [NSW promises to protect Barwon-Darling flow as it is attacked over Basin plan](#)
- [‘Australian first’ in legal challenge over Wallarah 2 mine approval on Central Coast](#)

**Help us continue our vital work**

Photo Chad Beranek



As a non-Government community legal centre, EDO NSW relies on your support to continue our important work - ensuring that people and nature have access to environmental education and justice, our planning system is accountable and transparent and our laws put environmental protection first and foremost.

If you agree that this is vital, please donate to our [Environmental Defence Fund](#).

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### **Court and Compliance Watch**

#### **Court fines Ardent Leisure \$157,950 for diesel leak**

The NSW Environment Protection Authority (EPA) prosecuted Ardent Leisure after approximately 6,000L of diesel fuel escaped into Sydney Harbour from a storage system at Rushcutters Bay marina in May 2016. Ardent pleaded guilty to two charges in the Land and Environment Court.

The contractors engaged to decommission a disused fuel tank at the marina were not informed that it was connected via underground pipework to an active tank. When the active tank was used by a member of the public refuelling their boat, it resulted in the diesel fuel escaping from pipework that had been cut by the contractors as part of the decommissioning works.

[Read more >>](#)

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### **Law Reform and Policy Watch**

#### **NSW Water Reform Action Plan**

EDO NSW has made a submission to the NSW Water Reform Action Plan. The EDO has many years of experience engaging with water law and policy processes at both State and Commonwealth levels. This has been most recently evidenced by the [civil enforcement proceedings](#) – the first of their kind – filed in the NSW Land and Environment Court in late 2017 on behalf of our client the Inland Rivers Network and which concern alleged breaches of the *Water Management Act 2000*.

As we have consistently argued for improved metering and measurement of extractions, greater transparency with respect to usage and account data and greater protection of environmental and low flows, we are pleased to see these issues discussed in the Action Plan. However, we are mindful that the Action Plan has been initiated in response to extremely serious allegations and revelations with respect to water management in NSW.

The extent of the systemic water issues that have been formally identified is significant and ranges from incompetence to possible corruption. It is reasonable to assume that additional, serious revelations may come to light as a consequence of the ICAC investigation and the SA Royal Commission. It is in light of water's unique status as our most important, shared natural resource that the community has made it clear that it will not continue to tolerate inter alia absent or inaccurate metering and measurement of water extractions, failure to disclose water usage and account data, and failure to enforce the law.

Consequently, only a rigorous set of measures to address compliance and enforcement, transparency, protection of environmental water and floodplain harvesting will restore the public's confidence in water agencies and the irrigation industry. Our analysis and recommendations are therefore to be interpreted against this backdrop – and in view of the fact that we act at the interface between the community (including downstream water users and floodplain graziers) and the government.

[Download our submission >>](#)

### **Murray-Darling Basin Plan: Five Year Assessment**

EDOs of Australia has made a submission to the Murray Darling Basin Plan: Five Year Assessment.

We have considerable concerns regarding the current management of water in the Basin and concerns regarding whether the Basin Plan will be implemented in full and on time. Our overarching concern relates to the failure on the part of the Commonwealth and certain Basin States to actively ensure we have a scientifically rigorous, risk-based approach to the management of the MDB's variable and scarce water resources, underpinned by strong laws. In addition to identifying progress of the many elements of Basin Plan implementation against set timeframes, a key issue for this review should be to determine whether desired outcomes are actually going to be delivered.

[Download our submission >>](#)

### **NSW planning policy for coastal management**

The State Environmental Planning Policy (Coastal Management SEPP) 2018 commenced on 3 April 2018 and guides development in coastal areas, including land adjacent to beaches, estuaries, coastal lakes, coastal wetlands and littoral rainforests.

The new SEPP replaces three environmental planning instruments: SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection), including clause 5.5 of the Standard Instrument – Principal Local Environmental Plan.

The Coastal Management SEPP is now available on the [NSW legislation website](#). An accompanying interactive spatial map viewer can be accessed via the [Department of Planning and Environment website](#).

For more information, email [coastal@planning.nsw.gov.au](mailto:coastal@planning.nsw.gov.au) or call 1300 305 695.

### Recent EDO submissions and reports

- [NSW Water Reform Action Plan](#) – EDO NSW submission
- [Murray-Darling Basin Plan: 5 year assessment](#) – EDOs of Australia submission
- [Draft Aboriginal Cultural Heritage Bill](#) – EDO NSW submission [\[insert link\]](#)
- [Draft Revision of the Biodiversity Conservation Strategy](#) – EDOs of Australia submission
- [NSW Regional Forests Agreement](#) – EDO NSW submission
- [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 LEPs are on exhibition at this time.*

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

- **Eastern Creek Waste Facility**

A public meeting will be held by the Independent Planning Commission at Rooty Hill RSL at 11am on Monday 14 May. The meeting will be open to the public to observe the proceedings, however if you would like to apply to speak at the meeting you must register before 5pm on 8 May 2018.

Written comments will be accepted up to one week after the public meeting.

This meeting will be recorded, with a written transcript published on the Commission's website.

[Find out more and have your say >>](#)

- **Cladding from aluminium composite panels, polystyrene products or similar**

The Department of Fair Trading is considering a ban on using certain materials or products in external cladding, wall, insulation, façade or rendered finishes on buildings of two or more storeys.

Submissions are invited as to whether a ban is warranted and, if so, the terms of such a ban.

Submissions, to be made by email, close on Monday 23 April 2018.

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

- **Brunswick Heads Boat Harbour Draft Master Plan**

Among suggested alterations to the existing plan are an additional boat ramp, new car and trailer parking spaces, picnic facilities and floating pontoons for mooring recreational and commercial vessels

Provide your feedback via online survey by 1 May 2018.

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

- **Review of Environmental Factors for new bridge over Barrington River**

Planning is continuing for the construction of a new bridge on Thunderbolts Way near Gloucester. The existing bridge provides a freight link between the Mid North Coast and the New England Tablelands and has been identified for replacement.

Provide your feedback by 5pm on Monday 23 April 2018.

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

- **Sydney Metro West**

Transport for NSW is seeking feedback on the study area for Sydney Metro West, an underground rail link connecting Parramatta to the Sydney CBD.

There will be community information sessions held around the metropolitan area:

- Sydney Olympic Park – 21 April and 3 May
- Pyrmont – 5 May

Submissions close on 18 May 2018.

[Read more and have your say »](#)

- **Western Sydney Long Term Strategic Transport Corridors**

Transport for NSW is seeking feedback on the Strategic Environmental Assessments that set out the strategic justification for four Western Sydney corridors.

There will be community drop-in sessions held around Western Sydney:

- Camden – 1 May
- Guildford – 3 May
- Berkshire Park – 8 May
- St Marys – 14 May
- Oakville – 16 May

Submissions close on 18 May 2018.

[Read more and have your say »](#)

- **National Approach to Environmental Impacts of Products**

Australian governments are working together to develop a strategic approach to reducing the social, economic and environmental impact of waste and want to hear from the public.

Submissions are open until 5pm on 4 May 2018

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

- **Review of the Product Stewardship Act 2011**

The Department of Environment and Energy is seeking input from industry, governments and the general public on the five year review of the Product Stewardship Act 2011, including the National Television and Computer Recycling Scheme.

Submissions are open until 29 June 2018

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

- **Draft Australian Priority Marine Pest List**

The Department of Agriculture and Water Resources is seeking comment on the draft Australian Marine Pest List.

The purpose of the new list will be to inform states and the Northern Territory of marine pests that could significantly impact Australian water and warrant action to limit their spread.

Submissions close on 1 June 2018

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

## **Threatened Species and Endangered Ecological Community Listings**

- *There have been no new listings 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**

- **South Australian Beach-cast Marine Algae Fishery** – This fishery is due for assessment for ongoing export accreditation – Submissions are invited until 17 May 2018.
- **Western Australian West Coast Rock Lobster Fishery** – This fishery is due for assessment for ongoing export accreditation – Submissions are invited until 4 May 2018.
- **Western Australian Pilbara Trawl Fishery** – This fishery is due for assessment for ongoing export accreditation – Submissions are invited until 4 May 2018.

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**

- **Yanga Nature Reserve Draft Plan of Management**

The Office of Environment and Heritage is calling for feedback on the Yanga National Park, Conservation Area and Nature Reserve Draft Plan of Management.

The plan is available for review and comment until 23 April 2018.

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

- **Bobbiwaa Parks Draft Plan of Management**

The Bobbiwaa parks include Killarney and Bobbiwaa state conservation areas and Couradda and Moema national parks.

The plan is available for comment until 21 May 2018.

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

- **Draft Plan of Management for Boonalla Aboriginal Area Community Conservation Area Zone 2**

The exhibition gives members of the community the opportunity to have a say in the future management directions for Boonalla Aboriginal Area Community Conservation Area Zone 2.

Submit your feedback online, by email or by mail by 22 June 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**

- **Geebung Ski Club, Perisher Valley** - External alterations including replacement of roof sheeting, cladding over block walls and replace timber with metal cladding and more.
- **Cowal Gold Mine Mod 14** – Processing Rate increase. Modifications to the Cowal Gold Mine Development Consent.
- **Kings Forest, Kingscliff** – This request seeks to extend the lapsing date of the approval to 31 December 2019.
- **Kings Forest Residential Community, Kingscliff** - Extend the lapsing date of the approval to 31 December 2019; add a new condition to enable a Construction Certificate to be issued for the carrying out of preliminary investigative and monitoring work on the land, without complying with the existing body of "before Construction Certificate" conditions.
- **Tahmoor Road, Tahmoor** - Developer to make a monetary contribution of \$9,486 per residential lot for provision of designated State public infrastructure.

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**

- *No new EPBC Referrals have been listed since the last eBulletin.*

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

### Connecting Nature, Connecting People

This Australasian Network for Ecology and Transportation (ANET) conference will include the latest findings in environmentally-sensitive linear infrastructure research and practice from around the world.

When: Monday 30 April – Wednesday 2 May 2018

Where: Creswick, Victoria

[Find out 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 July – 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 »](#)

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