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## NEWSLETTER NO 1 - FEBRUARY 1995

This is the first ELCAS Newsletter for 1995. So far this year the advisory service has been very quiet with only a small number of enquiries. However, as you will see from what follows the management committee have been active with a lot happening since November 1994.

### 1. Social Event (Thursday March 9 - Lemongrass Restaurant) and launch of Environmental Law Fact Sheets

An initiative developed from an idea of the New South Wales Environmental Defenders Office is the preparation of environmental law fact sheets which provide basic clear advice in language understandable to the non-lawyer about various areas of environmental law and people's rights in respect of those areas. The first three sheets commissioned by the management committee related to the amendment of development plans under the Development Act, the process of appeals under the Development Act in the Environment Resource and Development Court and Development Control procedures under the Development Act. Those three areas have resulted in the production of five environmental law fact sheets. We propose launching those fact sheets at two functions on Thursday 9 March 1995. The first launch will be at the end of the Planning Education Foundation's Seminar on Development Plan Review which is to be held at the State Library of South Australia on the afternoon of Thursday March 9 1995. The launch will take place during drinks at the end of that Seminar. Drinks will commence at 5.00pm. If you would like to attend that launch could you please let Mark Parnell (ph: 232 2566) know for the purposes of organising numbers.

The second launch on that day will be at a dinner to be held at the LEMON GRASS RESTAURANT at 289 Rundle Street, Adelaide (ph: 223 6627). All members, supporters and advisers from the ELCAS Advisory Service are invited to attend that dinner which will be conducted on an informal basis in a very similar manner to previous ELCAS dinners. A table has been booked at the Restaurant which serves a range of Asian food with a particular emphasis (in the downstairs dining room on Thai Cuisine and upstairs on Japanese Cuisine). The dinner will commence at 7.00pm. If you would like to attend could you please let Paul Leadbeter or his secretary Jeanette Vagg know on 210 1227 by Monday 6 March 1995. Apart from being a social get together with people involved with ELCAS the

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dinner will also give us an opportunity to launch the Environmental Law Fact sheets amongst the ELCAS Community and to thank the three students from the University of Adelaide who all spent a considerable amount of time preparing the sheets.

2. ELCAS Advisory Service Report

In October 1994 the Management Committee organised for a report to be prepared on the ELCAS Advisory Service for the 1992/93 and 1993/94 financial year. The report which was an excellent review of our activities to the end of the 1994 financial year was prepared by Paul Connor a final year law student. There is a significant amount of confidential information contained within that report however John Scanlon has kindly offered to edit the report for media purposes. An edited version will be available shortly. The report makes interesting reading. It will be of particular interest to those who actually provide advice at the Thursday night advisory service. It is interesting to see the areas which raise the most enquiries and how people have heard of ELCAS. Anyone who requires further information on the advisory service is welcome to contact Paul Leadbeter regarding the same.

3. Environmental Defenders Office Proposal

ELCAS has been involved as part of a group of EDO's in putting together a national proposal for funding by the Federal Government of Environmental Defenders Offices in each State and Territory. The New South Wales Environmental Defenders Office Limited has co-ordinated the preparation of a submission to the Access to Justice Action Plan presently being considered by the Commonwealth Government. That submission has recommended that the Government implement three reforms to redress the present imbalance between private, or government interest and persons or groups seeking to protect the public interest. Those reforms are:

1. The establishment of Environmental Defender's Offices similar to the New South Wales Office in every state and territory within Australia.
2. Legal aid funding for environmental cases.
3. The inclusion of third party civil enforcement provisions in all environmental protection legislation.

We are presently waiting to see whether this submission is adopted by the Federal Government. It will announce its initiative on Access to Justice within the next few weeks.

4. Recent Submissions made by ELCAS Management Committee

Three submissions have been made over the past few months by the ELCAS Management Committee in response to various Government calls for submissions. The first submission to the State Parliament's Statutory Authorities Review Committee related to the Legal Services Commission and the functioning and funding of activities for that Commission. The ELCAS submission dealt essentially with our concerns that at present in South Australia there is no legal aid funding provided for environmental law issues. This submission linked in with our national submission which has been made as part of the chain of Environmental Defender's Offices throughout Australia on the need for better funding of Environmental Law Disputes if more people are to have proper access to justice.

The second submission was made to the State Parliament Environment Resources and Development Committee with respect to the Sellicks Hill Cave and in particular the Committee's examination of all aspects surrounding the attempt in late 1994 to implode a cave at Sellicks Hill. The fourth criteria upon which the Committee sought submissions was whether there should be remedial legislation. ELCAS principally concentrated on this aspect submitting that it is essential if such disputes are to be avoided in the future that legislation is essential governing the obligations of parties who discover possibly significant caves.

The third submission which is presently being drafted by the Committee and will be submitted on Friday 24 February relates to the discussion paper on the review of the Development Act. ELCAS has indicated that it objects to the proposals in the discussion paper for modification to the current legislative requirements for the environmental assessment of major developments or projects. The submission points at some of the deficiencies in the proposed approach to this area. There are other minor comments made on other suggested amendments to the legislation.

Anyone interested in reading any of the above submissions can obtain a copy of the same by contacting Paul Leadbeter on phone 210 1227 fax 210 1234.

5. Appointment of ELCAS Administrator

After some deliberation the Management Committee has decided that it will engage the services of someone to act as administrator to the organisation for one day per week. The essential tasks of the administrator will be to organise the advisory service roster, look after the financial affairs of ELCAS and attend to the day to day correspondence and similar requirements of the organisation. If there is time it is also expected that the administrator will be able to assist the Committee in the preparation

and submission of ELCAS submissions on various issues raised for comment by the Government and others.

We hope that if funding on a national basis for environmental defender's offices is eventually forthcoming we may be able to expand the operations of our administrator into something involving the employment of a lawyer to actually provide some legal services on a full or part-time basis. James Blindell has been appointed as the administrator. He will commence his engagement as administrator from 1 March 1995. James can be contacted on Ph: (085) 583 545. Further information concerning the range of James' activities and the nature of enquiries which can be made of him will be provided in due course. It is hoped that we may be able to establish a facsimile contact for James in the near future.

6. Our records indicate that at present no-one is a financial member of ELCAS for 1995. With this newsletter is a slip in which you can register your interest to become a member of ELCAS and also provide us with a cheque for the sum of \$10 which is to be used as our membership fee.

7. Participation of University Students in ELCAS activities

As it will be apparent from some of the above items University students have been engaged by the ELCAS management committee to assist in the preparation of Environmental Law Fact Sheets and also to provide some advice on the new Environment Protection Act, the regulations and Environmental Protection Policies under that Act. Interested students from both Flinders University and Adelaide University are welcome to have their names placed onto the Roster to assist in the advisory service conducted on Thursday nights. The students responsible for organising the student rosters are

at Flinders University

Dianne Fisher, phone 353 1373

at Adelaide University

James Levinson, phone 339 1829

Can we remind all legal practitioners who participate in the Advisory Service that they must remember students may be attending. It is our preference that all interviews are conducted at the Bowden-Brompton Centre. If for some reason it is impossible to do that could you please ensure that you let the student who may be rostered on to attend your advisory session know of the changes in the arrangements. Last year there were a number of occasions when students attended at the Bowden-Brompton Centre only to find that no-one showed up and that they had made a wasted visit. Where we are trying to encourage people entering the legal workforce to get involved in activities such as that conducted by ELCAS it is important that we provide them with appropriate support.

8. Australian Law Reform Commission enquiry - review of the litigation costs rules

In October 1994 the Australian Law Reform Commission released an Issues Paper No. 13 entitled "Who should pay? - A review of the litigation costs rules". It sought public comment on the specific issues addressed in the paper. The purpose of the enquiry was to look at the advantages and disadvantages of the present arrangements governing the award of costs in proceedings before the Courts and Tribunals, whether any change should be made to the way costs were awarded in proceedings before Courts and Tribunals exercising Federal jurisdiction and any related matters.

John Scanlon very kindly agreed to prepare a submission on behalf of ELCAS to the enquiry. He made his submission on Monday 20 February 1995. ELCAS believes it is important that it be seen to be making submissions on such issues, particularly because costs can be a fundamental constraint to public interest litigation in the environmental law area. It is hoped that all environmental defenders offices in Australia and the Territories, (or the groups working to establish such offices) will make submissions to the enquiry when it meets in each capital city.

Thank you again for your support of ELCAS. For those people who have previously been members could they please renew their membership as soon as possible. Anyone who would be interested in becoming a member of ELCAS and therefore supporting its objectives and ideals, is invited to complete the application form and subscription. I look forward to seeing members and friends of ELCAS at our informal dinner on Monday 9 March 1995.

**Paul Leadbeter**  
Chairperson  
Environmental Law Community Advisory Service  
(SA) Incorporated