

# editorial

Dear Readers,

## *Environmental Law Roundtable creates links with RMLA New Zealand*

You may have read about the successful establishment of the *Australia Environmental Law Roundtable* ('the Roundtable') at the 2005 NELA Annual Conference. At the second Roundtable meeting held recently in Christchurch, the ambit of Roundtable activities was extended to include Australia and New Zealand through a formal link between NELA and the *Resource Management Law Association of New Zealand*. A working Group Proposal issued by the new expanded Roundtable is included in this issue under Recent Developments.

The RMLA was particularly interested in several of the papers presented at our Annual Conference on the role of courts and expert witnesses and NELA has given permission for those papers to be published in the inaugural issue of the RMLA's new annual journal, *Resource Management Theory and Practice*, edited by Trevor Daya-Winterbottom.

One of the first active research topics undertaken by the Roundtable is harmonization of laws relating to penalty infringement notices. This topic was inspired by the conference paper presented by Rosemary Martin of Martin & McLean Lawyers, which is featured in this issue. We also feature a paper by Charles Berger, a Legal Adviser with the Australian Conservation Foundation, on the recent environmental approval process for the Hazelwood West Coal Mine extension in the Latrobe Valley Victoria, which will extend the operating life of Australia's most greenhouse intensive power station for another 25 years.

## *Inquiries into corporate social responsibility*

One of the vexed questions in our Australian legal system is who should be responsible for environmental management. Traditionally the debate (or dispute) has been between various levels of government. However globalization of business and micro-economic reforms have increasingly deprived governments of political and legal powers over the various activities that have greatest impact upon environmental resources (eg. through the privatisation of electricity generation and transport infrastructure). This places the environmental spotlight firmly upon corporations, and brings into question the current model of corporations law and directors' duties. The traditional 'shareholder primacy' view holds that directors are obliged to maximize shareholder value which may often be to the detriment of other stakeholders such as employees, creditors and the broader community. A more socially responsible view is that corporations should take into account the interests of all stakeholders. There are currently two government inquiries in progress on this question. One is a reference to the Corporations and Markets Advisory Committee concerning the extent to which the duties of directors under the *Corporations Act 2001* should include corporate social responsibilities or explicit obligations to take account of the interests of certain classes of stakeholders other than shareholders. CAMAC is due to release a discussion paper on this matter in November 2005. The second inquiry is a reference to the Australian Parliamentary Joint Committee on Corporations and Financial Services into Corporate Responsibility and Triple-Bottom-Line reporting, for incorporated entities in Australia. Submissions to this inquiry closed on 30 September 2005 and a Report is due by 31 March 2006.

## *Sub-Editor news*

Elizabeth Marsden has advised that this will be her last contribution as National/Commonwealth contributor. David Jones has also made his last contribution in International developments (in the last issue), and thus his role is also vacant. I am very grateful for the excellent contributions that Elizabeth and David have made.

Regards

**Wayne Gumley**  
National Editor

# NELR editors

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## NATIONAL EDITOR:

Wayne Gumley

*Senior Lecturer, Monash University*

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Wayne has completed a BSc and LLM at Monash University and was first employed as a solicitor in the town of Mansfield close to the mountains of northeast Victoria. He later moved back to Melbourne to join the Australian Government Solicitor's Office, where he carried out a wide range of litigation and advising on behalf of the Commonwealth government and its various agencies, particularly on administrative law and revenue law. In 1992 Wayne joined the Faculty of Business and Economics at Monash as a lecturer in taxation law, and has recently extended his teaching to business law and environmental law. Wayne's research interests centre on emerging regulatory frameworks to assist sustainable development, particularly ecological tax reform and the role of market-based instruments. He is currently on the executive of the Victorian Division of NELA

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## INTERNATIONAL, ACT EDITOR:

David Jones

*Associate, Baker & McKenzie Solicitors,  
PhD Candidate, University of Wollongong*

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David Jones has been involved with NELA since 1999 and took on these editorial roles at the beginning of 2003. David holds degrees in Law (Hons) and Environmental Science, a Graduate Certificate of Business and is currently completing his PhD with the University of Wollongong. His thesis examines developing systems for climate change regulation, with a particular focus on Australian opportunities for integrated environmental management.

David has worked in private practice for over 5 years, specialising in environmental, local government and planning law. He is a guest lecturer with the University of Wollongong, currently presenting the environmental and government tendering electives of the University's Practical Legal Training program.

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## NATIONAL & COMMONWEALTH EDITOR:

Elizabeth Marsden

*Barrister and Solicitor, Southern Vales Legal*

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A graduate of the Australian National University in law and the arts, Elizabeth has been admitted to practice in the ACT and South Australia since 2002/3. While studying law, she was the ACT editor of this journal's predecessor, the Australian Environmental Law News. Elizabeth has carried out research for environmental organisations, taught at a university, and practised law in Canada, England and more recently, South Australia. She had an article published in the Canadian Journal of Environmental Law and Practice on the domestic implementation of international environmental law, based on her research for the Sierra Legal Defense Fund. Elizabeth is currently taking a career break for family reasons.

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## NEW SOUTH WALES EDITOR:

Dr Nicholas Brunton

*Partner, Henry Davis York*

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Nicholas Brunton has been a member of NELA and state editor since 1992.

He has degrees in Law and Geography from Macquarie University and received a PhD from the University of Sydney in 1998. His thesis examined the law and policy relating to coastal water pollution in Australia.

Nicholas currently practices in the areas of planning, environment, valuation, property and commercial law. He is also kept busy providing guest lectures at both Sydney and Macquarie Universities.

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**QUEENSLAND EDITOR:****Larissa Waters***Solicitor, Brisbane*

Larissa Waters is a solicitor at the public interest environmental law specialist Environmental Defenders Office Qld (EDO Qld), a community legal centre providing pro bono advice, education and law reform assistance to members of the public on using the law to protect the environment.

Larissa holds a Law degree with honours, an Environmental Science degree majoring in Environmental Policy and Economics, and a Graduate Diploma in Legal Practice. She was admitted to practice in NSW in 2001 and in Queensland in 2002, and worked in the Brisbane office of a national law firm before joining EDO Qld in April 2002.

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**VICTORIAN EDITOR:****Jennie Slatter***Project Manager, Waste Management Policy, EPA Victoria***Jennifer.Slatter@epa.vic.gov.au**

Jennie Slatter has been Victorian state editor since 2002. She holds a Masters in Environmental Law and a Bachelor of Applied Science in Environmental Assessment and Management. Prior to joining EPA Victoria, Jennie worked in environmental consulting for seven years and previously worked for two years in the environmental department of an open-cut coal Mine in the Hunter Valley. Jennie is a member of the Victorian Planning and Environmental Law Association (VPELA).

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**SOUTH AUSTRALIAN EDITOR:****Will Webster***Barrister and Solicitor, Mellor Olsson***wwebster@mellorolsson.com.au**

Will has been a member of NELA since 2000, and sits on the South Australian Branch Executive Committee, and the Natural Resources Sub-committee.

He has degrees in Arts and Law from the University of Adelaide.

Will practices at Adelaide firm Mellor Olsson, in the areas of Environmental and Planning Law, and Commercial dispute resolution.

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**TASMANIAN EDITOR:****Tom Baxter***Lecturer in Commercial Law, University of Tasmania***Tom.Baxter@utas.edu.au**

Tom Baxter, BEc/LLB(Hons)(Tas), GradCertLegPrac(Tas), LLM(ANU), has been a member of the NELA National Executive since 1997.

After graduating from the University of Tasmania, Tom worked at Dobson, Mitchell & Allport in Hobart from September 1997 to December 1999. From January 2000 to May 2003 he was Legal Officer at the Great Barrier Reef Marine Park Authority, a Commonwealth statutory authority based in Townsville. In June 2003 he returned to Hobart as a Lecturer in Commercial Law at the University of Tasmania.

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**WESTERN AUSTRALIAN EDITORS:****Merinda Logie***Associate, Minter Ellison, Perth*

Merinda is joint Vice President of the WA Division of NELA. She has previously been treasurer for the WA Division, and State representative on the National Executive for both Victoria and WA. Merinda is an Associate of Minter Ellison, Perth and has been practising Environment & Planning law in WA and Victoria since September 2000.

# written contributions and letters to the Editor

Written contributions to the National Environmental Law Review, by way of case note, book review or article are welcomed by the editorial board.

Please send contributions to you state editor in the first instance. They will review contributions and forward them to the national editor. State editorial contact details are on the preceding pages.

As a general guide, articles should be between 3,000-5,000 words in length and should conform to standard conventions of legal writing. Please refer to the Australian Guide to Legal Citation (Melbourne University Law Review Association Inc 1998) as an illustrative style guide.

Acceptance of written work in the NELR does not in any way indicate an adoption by NELA of the opinions expressed by authors. Authors remain responsible for their opinions, and any defamatory or litigious material and the Editor accepts no responsibility for such material.

Letters to the Editor are also welcomed. Please forward these to:

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