

# editorial

Dear Readers

## *The Limits to Growth and Eco-System Thinking*

*The Limits to Growth* created an international sensation over 30 years ago. It is worth noting that this landmark study commissioned by the Club of Rome was updated in 2004, in *Limits to Growth: The 30-Year Update* (by Donella Meadows, Jorgen Randers and Dennis Meadows). The update found some progress over the past 30 years, including new technologies, new institutions, and a new awareness of environmental problems. However, the authors are far more pessimistic than they were in 1972, as nothing substantial has happened over the past thirty years to invalidate the original warnings about a catastrophic overshoot in resource consumption. Consequently, we now require far more fundamental changes to our development pattern if the world is to avoid the serious consequences of “overshoot” in the 21st century. One of the key messages in the update is the need for a transition to a ‘systems thinking’ approach.

“Sustainability does not mean zero growth. Rather, a sustainable society would be interested in qualitative development, not physical expansion. It would use material growth as a considered tool, not a perpetual mandate. Neither for nor against growth, it would begin to discriminate among kinds of growth and purposes for growth. It would ask what the growth is for, and who would benefit, and what it would cost, and how long it would last, and whether the growth could be accommodated by the sources and sinks of the earth.”

At the heart of these concerns is the need to protect ecosystems services. Recent disputes over Wielangta Forest and the greenhouse considerations in impact assessment processes suggest that systemic failures are a major weakness in our legal framework for environment protection. In many ways, environmental law is the formal embodiment of systems thinking, as they both aspire to establish decision making processes which allow due consideration of the full range of social and ecological perspectives.

This issue provides some insight into systemic weaknesses which contribute to unsustainable development. An article by Shashi Sivayoganathan provides a detailed analysis of the Full Federal Court’s decision in *Brown v Forestry Tasmania*, decided on 30 Nov 2007. This case is the latest episode in the legal challenge to the Tasmanian Regional Forest Agreement with respect to the Wielangta Forest. The author concludes that this case illustrates that the EPBC Act provides an ‘empty promise’ in relation to biodiversity protection where Regional Forest Agreements are concerned.

This issue also contains two articles considering recent developments in the rapidly evolving legal framework for climate change. The first paper by John Taberner and Paul Branston describes the key aspects and implications for business of the new greenhouse reporting legislation, the *National Greenhouse and Energy Reporting Act 2007* (Cth). The authors emphasise the need for Australian businesses to be aware of their potential obligations under this ground-breaking legislation, which will require many businesses to commence monitoring energy and greenhouse details from 1 July 2008, as prerequisite for compliance with reporting obligations in 2009.

One of the main objects of the new greenhouse reporting rules is to provide reliable data to support the Australian Emissions Trading Scheme, due to be introduced in 2011. The final paper in this issue, by Rachael Webb, provides an evaluation of the Australian government proposal, as well as the ‘National’ scheme proposed by the Labor State governments. She warns that designing an effective emissions trading scheme is an immensely complex task, and several of the design features of the proposed schemes deserve substantial re-thinking.

Regards  
Wayne Gumley

# NELR editors

## **NATIONAL EDITOR**

*Editor: Wayne Gumley*

*Senior Lecturer, Monash University*

*wayne.gumley@buseco.monash.edu.au*

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. Since 2006, Wayne has been leading a Faculty project to promote the integration of environmental sustainability into the business teaching programs..

## **INTERNATIONAL EDITOR**

*Editor: Penny Creswell*

*Senior Associate, Allens Arthur Robinson, Melbourne*

*Penny.Creswell@aar.com.au*

Penny Creswell works in the Energy, Resources and Infrastructure group at Allens Arthur Robinson. Her practice includes environmental work. Penny has recently returned to private practice after spending a number of years doing predominantly native title and land rights work in the Northern Territory. She has an LLB (Hons)/BA from Melbourne University and was the Victorian secretary of NELA and the Victorian editor of the NELA journal back in 1997. Her areas of interest include climate change and corporate responsibility.

## **NATIONAL & COMMONWEALTH EDITOR**

*Editor: Simon Batten*

*Lawyer, Allens Arthur Robinson, Brisbane*

Simon Batten completed a LLB in 2002 and was admitted to practice in 2003. He is currently studying a Masters of Environmental Management through the University of Queensland. Simon has been involved in environmental litigation in the Federal Court and advises on environmental and planning matters as a member of Allen Arthur Robinson's environment and planning practice. Simon has an interest in sustainable urban design and transport, as well as bush regeneration.

## **NEW SOUTH WALES EDITOR**

*Editor: Dr Nicholas Brunton*

*Partner, Henry Davis York*

*nicholas\_brunton@hdy.com.au*

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.

## **QUEENSLAND EDITOR**

*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.

## **VICTORIAN EDITOR**

*Editor: Elisa de Wit*

*Partner, Deacons, Melbourne*

Elisa is a Partner in the Environment and Planning group of Deacons in Melbourne. Prior to joining Deacons, Elisa worked as an environmental and planning lawyer in London for eight years. Elisa has also practised in South Australia and New South Wales. She holds a LLB (Hons) and BA (Juris) from Adelaide University and completed a Masters of Environmental Law through Adelaide University in 1997. Elisa advises on all areas of environmental and planning law, and has developed a particular expertise in the area of waste management and contaminated land.

## **SOUTH AUSTRALIAN EDITOR**

*Editor: Rebecca McAulay*

*Associate, Norman Waterhouse*

*RMcAulay@normans.com.au*

Rebecca McAulay joined the Norman Waterhouse Planning and Environment Team as a solicitor in February 2006 after two years legal experience at a middle tier firm in Adelaide. Her areas of specialty include urban and regional planning, environment, building, native title, water resources and native vegetation law. She also has four years previous experience in the Planning and Environment Department of a large metropolitan council and is a regular contributor to a range of professional and industry publications.

## **TASMANIAN EDITOR**

*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.

## **WESTERN AUSTRALIAN EDITOR**

*Editor: James Sippe and Clara Bowman*

*James.Sippe@freehills.com and  
Clara.Bowman@freehills.com*

James Sippe has an honours degree in law and a degree in science from the University of Western Australia. In the final year of his law degree, James was an editor of the University of Western Australia Law Review. At high school, he co-founded the Kids Helping Kids (now Millennium Kids) youth environmental group and, more recently, worked as a law clerk in Freehills' environmental law team.

Clara Bowman holds degrees in science and law from Murdoch University. She became involved in NELA as a student in 2004. Her honours thesis examined innovations in presenting expert evidence to the courts in the course of environmental litigation.

**AUSTRALIAN CAPITAL TERRITORY EDITOR***Editor: Kelly Casey**Lawyer, Minter Ellison**kelly.casey@minterellison.com*

Kelly has recently joined the National Environmental Law Review as the ACT editor. She is situated in Minter Ellison's Canberra office, holding a position in the Property Group. Kelly practices in the areas of property, construction and planning and has an interest in sustainability and biodiversity conservation.

She is currently completing a Master of Laws in environmental and natural resource law.

## 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 your 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:

Wayne Gumley  
NELR National Editor  
Department of Business Law and Taxation  
Monash University  
PO Box 197 Caulfield East  
Victoria 3145

wayne.gumley@buseco.monash.edu.au

## NELR contributions and publication schedule for 2007

Contributors please note:

- NELR - The general rule is that contributions for the Review are due to the National Editor in the first week of the last month for each season to enable printing and distribution by the end of that month (except for Autumn 2007, which was postponed) – as shown below.
- NELA Bulletin - Contributions to the may be submitted to the NELA Secretariat in the last week of each even-numbered month (Feb/Apr/Jun/Aug/Oct/Dec).

NELR Issue	Contributions deadline	Expected publication date
Autumn 2007:1	Friday 1 June 2007	Monday 18 June 2007
Winter 2007:2	Friday 3 Aug 2007	Monday 20 Aug 2007
Spring 2007:3	Friday 2 Nov 2007	Monday 19 Nov 2007
Summer 2007:4	Friday 8 Feb 2008	Monday 25 Feb 2008

