EDO

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The Copenhagen Accord: progress without commitments

Josie Walker, principal solicitor

Earlier this month 170 world leaders met at the Climate Change Summit in Copenhagen to try to forge a new agreement to avoid catastrophic climate change. The most critical task for the Summit was to agree on the next stage of emissions reductions targets, with current targets under the Kyoto Protocol expiring in 2012. Unfortunately, the parties failed to reach a legally binding agreement. Nevertheless the "Copenhagen Accord", noted but not adopted by the Conference of the Parties, offers some hope of progress towards legally binding targets at the next Conference in Mexico City in December 2010.

Key provisions of the Copenhagen Accord are that:

- any increase in the earth's temperature should be limited to two degrees Celsius
- by 31 January 2010, developed countries are to identify new commitments to emissions reductions by 2020
- developing countries other than least developed countries and small island states are to identify nationally appropriate mitigation actions by 2010, and
- developed countries will contribute approximately $30 billion to support mitigation and adaptation activities in developing countries.

Under the current agreement established by the Kyoto Protocol, developed country parties have quantified emissions reductions targets for the years 2008-2012. These targets are legally binding on countries which have ratified the Protocol. On the other hand, developing country parties are encouraged to take nationally appropriate mitigation actions, but do not have to meet specific emissions reductions targets.

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Kimberley Hub development plans undermine EA process

Claudia Maw, EDO volunteer

Photo: *Environs Kimberley*

It has been a year since the Barnett government announced its preference for James Price Point, situated some 60km north of Broome in the state's Kimberley region, as the location for a new liquefied natural gas (LNG) precinct, which will process petroleum extracted from the Browse Basin area by Woodside Petroleum Ltd (Woodside) and its joint venture partners. Recent events show that the State Government is still determined to press ahead with a gas hub in this location, despite intense opposition from the environmental community in Western Australia.

On 2 December 2009 the Western Australian Department of Mines and Petroleum, acting in conjunction with the Joint Authority managing the development of the Browse Basin LNG project, made an offer to renew the petroleum retention leases held over the area by Woodside and its joint venture partners, which include BHP Billiton, Chevron, and Royal Dutch Shell. The offer outlines various conditions on the commercialisation and development of the petroleum within the lease area, with which the joint venture partners must comply if they wish to retain the leasess. Most notably, the joint venture partners must

- accept the terms of the leases within 30 days, and
- within 120 days from the date of notification, select the development concept, that being the concept whereby gas is processed at the James Price Point precinct unless the joint venture partners can

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EDO news update

Kristy Robinson, outreach solicitor

On the road again

In October I visited Denmark and Albany, to hold two community legal education workshops and free advice clinics, as part of the EDO's Remote, Rural and Regional (RRR) program. Topics covered by the workshops included State and federal environmental impact assessment and approval processes, and native vegetation clearing laws.

As always, the focus of the workshops was on the opportunities available for community members to participate in these processes, in order to keep decision-makers and development in check, and to protect the local environment.

Both workshops were well attended, providing valuable opportunities for information and experience sharing, and demonstrating the passion and commitment of the community to protect the precious environment of the Great Southern.

The workshops were held in cooperation with Albany and Denmark Environment Centres. I wish to thank Helen Knewstub and Janice Marshall for their invaluable assistance in organising each event.

The RRR program funds the EDO to undertake three to four workshops throughout the State each year. If you would like the EDO to visit your area to conduct community legal education workshop on a matter of public interest environmental law, please contact us on edowa@edowa.org.au or 1800 175 542.

Annual General Meeting

The EDO held its Annual General Meeting on 8 October 2009, which was followed by volunteer and pro bono drinks. In addition to formalities, it is always a fantastic social opportunity to meet and talk with EDOWA members, pro bono lawyers and volunteers after the meeting, and the EDO would like to thank those who attended.

Our thanks also go to those who sent proxies, Mallesons Stephen Jaques for providing the venue, and EDO volunteers Renee Asher and Emily Campbell for their assistance in the smooth running of the event.

Member event: climate change – how is the law dealing with it?

On 3 December 2009 Lee McIntosh, legal consultant with Mallesons Stephen Jaques and EDOWA Management Committee member, presented an information session on how the law is addressing climate change.

Climate change law is an exceptionally topical and fast-changing area of law at the moment – not only can the pace of change make it a difficult area to stay on top of, but with so much political debate it can also be hard to get an objective, detailed explanation of what is proposed, and what the implications of those proposals will be. EDO members, volunteers and staff were grateful for Lee's in-depth and up-to-date analysis of the federal Government's proposed Carbon Pollution Reduction Scheme (CPRS), and consideration of the application of Corporations law and the common law to climate change.

As the Senate has now rejected two different versions of the proposed CPRS Bill, the Government has indicated that it intends to re-introduce the Bill before Parliament in early February 2010. This is no doubt a space that many will be watching.

Thank you and farewell

After almost two years in the role of Outreach solicitor, I will be leaving EDO in the New Year. I have thoroughly enjoyed my time here, and would like to thank all the EDO members and clients I have worked with. I'm especially grateful for the opportunities I have had to visit and work with people face-to-face around the State. It is always inspiring to see so many community members working to protect the environment, and it has been a pleasure to meet and work with you. Thank you.

Seen at the AGM. Top: L-R *Kristy Robinson, Greg Boland, Divvya Doss & Renee Asher.* Below: L-R, *Greg McIntyre, Greg Boland & Lee Mcintosh.*

Environmental Defender's Office Western Australia (Inc)

Job opportunity - Outreach solicitor

The Environmental Defender's Office of Western Australia Inc is a not-for-profit Community Legal Centre which provides free legal advice, legal representation and community legal education in public interest environmental law matters.

We are looking for someone with a passion for the environment, who is also an excellent lawyer and communicator, to fill the position of Outreach solicitor.

For the Position Description and Selection Criteria, please go to the Jobs Board on our website www.edowa.org.au or call us on (08) 9221 3030.

EDOWA law reform alert

Proposed changes to environmental laws will remove appeal rights

Josie Walker, principal solicitor

The State government is proposing to make some significant changes to the environmental assessment and planning approvals system in Western Australia. The EDO believes that these changes will have a negative impact on environmental accountability and public participation in the planning and approvals system.

Changes to the *Environmental Protection Act 1986* would remove the right for members of the public to appeal against levels of assessment for proposals which are likely to have a significant effect on the environment, provided the EPA has decided to formally assess a proposal. This is an important provision, because if the level of assessment for a project is set too low the impacts of a proposal are unlikely to be properly assessed. The EDO believes that the right of appeal against levels of assessment is just as important as the right of appeal against the EPA's report and recommendations on a proposal.

The changes would also take away the rights of objectors to appeal against the declaration that a project is a "derived proposal". If the EPA declares that a project constitutes a derived proposal, it is effectively saying that the impacts of the proposal have already been adequately assessed under a strategic assessment process, therefore the project itself does not require an environmental assessment. In our view this is a very significant decision for the future determination of the project, which should be subject to a right of appeal.

Planning laws

There are also some important changes proposed to planning laws, the most radical of which would see local governments lose the power to determine larger-scale development proposals in their local areas. The power to determine these development applications would be given to Development Assessment Panels (DAPs) comprised of State-appointed experts with only a minority of local government representation.

The categories of development that will be subject to determination by DAPs are not known, because this and other important details are to be provided in the regulations which are yet to be released. The Discussion Paper released in September 2009 proposes that developments over the value of $1m, including commercial and industrial development, and residential developments comprising more than ten dwellings should go to DAPs.

EDO concerns

The EDO is concerned that handing over these decisions to panels of experts will erode the community's power to influence important development decisions in their local area through their elected representatives.

Other amendments give the Western Australian Planning Commission greater powers to make improvement plans for redevelopment of certain areas, including the power to make improvement schemes which would override local planning schemes. The Minister would also have the power to "call-in" and determine applications before the DAP which the Minister decides are "significant". Criteria for deciding what is a "significant" development are to be contained in the regulations.

Bills to implement these changes were introduced into Parliament in late November 2009, and may be voted on when Parliament resumes this February. The Approvals Bill has been referred to the Standing Committee on Uniform Legislation and Statutes Review. Submissions to the Committee closed on 11 January.

The EDO will be actively engaging with government and stakeholders to ensure that there is a well-informed debate about the effects of the proposed amendments.

Copenhagen Accord

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The major sticking point at Copenhagen was that developed countries, especially the USA, wanted major developing economies such as China, India and Brazil to also accept quantified and verifiable emissions reductions targets. The developing countries involved were strongly opposed to this proposal, although China has offered to reduce the "carbon intensity" of its economy, that is the amount of carbon produced per unit of production.

The reluctance of developing countries to sign on to binding emissions reductions targets is understandable, given that all the targets proposed to date by the major developed countries are relative to historic emissions levels. Another approach, explored in a WWF report entitled "Sharing the effort under a global carbon budget" would be to steadily reduce developed country emissions and allow the smaller developing countries modest increases, up to a point where all countries had an equal per capita emissions allowance, with the total being at a level that was safe for the climate. Whatever method is adopted, both sides need to be willing to move from entrenched positions if legally binding targets are to be achieved in 2010, and at levels which will make the two degrees objective attainable.

My thanks to A/Prof Rob Fowler, Convenor of EDO (SA) for providing his unpublished analysis of the outcomes of Copenhagen, which I have drawn upon in this article. The opinions expressed are my own.

Photo *Polska Zielona Sie/Polish Green Network; www.flickr.com/photos/zielonasiec/4179510904/*

US courts clear the way for more climate change litigation

Connecticut v American Electric Power Company Inc, 582 F.3d 309, C.A.2 (NY) 2009, September 21, 2009

Kristy Robinson, outreach solicitor and
Una Tseng, EDO volunteer

A major hurdle to climate change litigation in the USA has been lifted by the Second District Court of Appeal, which found that US courts were not barred from hearing cases alleging public nuisance caused by greenhouse gas emissions.

In *Connecticut v American Electric Power Company Inc*, the Plaintiffs (comprising eight States, the City of New York, and three land trusts) sued six electric power corporations that own and operate coal-fired power plants in twenty states across the USA (the Defendants).

The Plaintiffs brought actions under the common law of nuisance in an attempt to force the Defendants to reduce their emissions, which were linked to global warming. The Plaintiffs claimed that the Defendants, as the "five largest emitters of carbon dioxide in the United States and ... among the largest in the world," were contributing to global warming which was causing serious harm to human health and natural resources and was therefore a public nuisance.

In the first instance, the District Court had found that the Plaintiffs' claims were inherently political and therefore not something that the Court could determine. The US "political question doctrine" bars the courts from hearing cases if deciding the case will involve inappropriate interference in the business of Government.

The Plaintiffs successfully appealed this decision in the Court of Appeal of the Second Circuit. The Court of Appeal considered that the political question doctrine must be "cautiously invoked" and although any decision involving possible limits on carbon emissions are important in the context of global warming and could have political implications, "not every case with political overtones is non-justiciable".

The Court considered that a Court would be able to address the Plaintiffs' requests for numerous reasons, including that they were not asking the Court to "fashion a comprehensive and far-reaching solution to global climate change", a task that would arguably fall to the political branches of government; there were not "unmanageable policy" issues involved, and "well-settled principles of tort and public nuisance law provide appropriate guidance" to the Court. The Court found that the power of Congress to overrule the Common Law by legislation, if it choose to do so, provided sufficient protection for the separation of powers.

The Court also confirmed that the Plaintiffs had standing to bring the proceedings, as they had sufficiently alleged future injury as a result of global warming.

Following this decision, a US District Court may now determine the case on its merits, or the defendants may lodge a further appeal to the US Supreme Court disputing the findings of the Court of Appeal.

Foto 43; www.flickr.com/photos/37117644@N00/2420537629/

The case has no direct application in Australia, which does not have a threshold rule comparable to the "political question doctrine". However it will open the way for the US Courts to decide climate change-related nuisance cases, which if successful are likely to prompt similar court action elsewhere.

Kimberley Hub development plans

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demonstrate that an alternative development concept is likely to be commercially viable at an earlier time.

Woodside, which has been a strong supporter of the government's selection of the James Price Point location, issued a statement on 24 December 2009 indicating that the joint venture partners had agreed to the terms and conditions of the leases.

By adding this condition to the terms of the joint venture's leases, the Government and the Joint Authority seek to force the selection of the James Price Point location for the development of the LNG plant, perhaps because earlier reports suggest that several of the joint venture partners planned to pipe petroleum extracted from the Browse Basin sites to an existing LNG plant at Karratha at a much later date.

This proscriptive condition also appears to pre-empt the environmental assessment procedures established under the *Environment Protection and Biodiversity Conservation Act 1999*, to which both the federal and state governments are subject following an agreement between them dated 6 February 2008. AECOM, the company contracted by the state government to undertake the strategic environmental impact assessment of developing an LNG precinct at James Price Point, has yet to deliver its assessment report. ■

Planning for sea level rise

Kristy Robinson, outreach solicitor and
Catherine Miller, EDO volunteer

It is no longer news that sea levels are predicted to rise as a result of climate change. Developers, however, show no sign of slowing down development along the coast – particularly in WA, where canal-estate subdivisions remain popular. Many existing coastal developments will also be impacted by sea level rise. As a result, decision-makers are entering new territory.

Some local councils in NSW are already dealing with the consequences of inadequate coastal development planning. Councils of Sydney's Northern Beaches are being forced to weigh up the environmental cost of constructing sea walls (such as losing beaches) to protect coastal developments, while at Norah Head the council has been forced to order residents to dismantle structures from properties which were constructed to help prevent major land slippage as a result of coastal erosion.

This article takes a brief look at some recent progress in efforts to reconcile climate change impacts and planning laws.

On 26 October 2009 the Commonwealth House Standing Committee on Climate Change, Water, Environment and the Arts released its report on an Inquiry into climate change and environmental impacts on coastal communities. The report, entitled *Managing our coastal zone in a changing climate: the time to act is now* contains 47 recommendations, including that the Australian Law Reform Commission undertake an urgent inquiry into the legal issues surrounding climate change impact on the coastal zone, particularly to clarify liability issues facing public authorities and property owners. Other key recommendations include that the Australian government consider adopting national guidelines with a nationally consistent sea level rise planning benchmark. (For further information see the Australian Parliament website at www.aph.gov.au)

Also in October, the NSW Department of Environment and Climate Change adopted a Sea Level Rise Policy Statement, in recognition of the significant medium- to long-term social, economic and environmental impacts that increased sea levels will have. The Statement provides guidance on decision-making where physical coastal processes or the influence of tidal waters need to be considered.

The Statement outlines the NSW government's approach to sea level rise, the risks to property owners from coastal processes, and what assistance the government can provide to councils to reduce the risks of coastal hazards. It sets sea level planning "benchmarks" which are to be considered by decision-makers so that the impacts of projected sea level rise can be taken into account consistently along the state's coast. The benchmarks predict a rise relative to 1990 mean sea levels of 40cm by 2050, and 90cm by 2100. The NSW government also confirms that it accepts no specific future obligations to reduce the impacts of coastal hazards and flooding caused by sea level rise on private property, under either common law or statute.

Increasingly, courts and tribunals are also having to consider the impacts of sea level rise on planning decisions, particularly in Victoria and South Australia.

The Victorian Civil and Administrative Tribunal (VCAT) was recently required to weigh up the risk of sea level rise against the expectations of a developer to be able to proceed with a development that would otherwise be consistent with local planning controls, in *Myers v South Gippsland SC (No 2)* [2009] VCAT 2414.

The case involved an application to subdivide an existing lot into two lots in a town area. A coastal hazard vulnerability assessment undertaken for the Tribunal indicated that, without mitigation measures, the site would be inundated by the sea by 2100. The VCAT adopted a "precautionary approach", as is required by policy when considering the impacts of climate change, and found that it could not support the subdivision, as to do so would result in a poor planning outcome and would "unnecessarily burden future generations". The Tribunal rejected the development application.

Litigation in South Australia in 2008 also demonstrated similar trends. In *Northcape Properties Pty Ltd v District Council of Yorke Peninsula* [2008] SASC 57, the Supreme Court upheld a decision of the Environment, Resources and Development Court (which in turn upheld a Council decision) refusing a proposed development on the basis of climate change.

In that case Northcape Properties sought to subdivide a large parcel of land on the Yorke Peninsula into 80 allotments for residential development. The Court found that the coastline would move inland 30-40 metres due to sea level rise, eroding a required buffer zone and preventing access to the coast on what is now a coastal reserve, contrary to the local Development Plan.

Sea level rise is becoming an issue that planning authorities can no longer ignore. ■

Storm surges are likely to increase as sea levels impact on coastal areas, causing major property damage.

Photo: Geraldine Pollock.

EPBC Act: what's new?

Report on ten-year review of EPBC Act released

Kristy Robinson, outreach solicitor

On 21 December 2009 the Federal Minister for the Environment tabled the final report of the independent review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The Australian Environment Act: Report of the Independent review of the Environment Protection and Biodiversity Conservation Act 1999 undertaken by Dr Allan Hawke and a panel of experts, assessed the operation of the EPBC Act and the extent to which the objects of the Act have been achieved over the past ten years (ie, since the Act has been in operation), as required by s522A. Throughout the year-long review process, the Australian Network of Environmental Defender's Offices (ANEDO) made several submissions on the review.

The report analyses the performance and effectiveness of the EPBC Act and makes numerous recommendations for significant reform of the Act and its administration.

One important recommendation was to create a new matter of national environmental significance for 'ecosystems of national significance' to better protect biodiversity at an ecosystem level, and enable the Minister for Environment to make emergency listings of threatened species and ecological communities.

The report also recommended that proposals likely to produce significant greenhouse gas emissions should be treated as matters of national environmental significance, at least until an emissions trading scheme was up and running, given the urgency in tackling Australia's carbon emissions and the current uncertainty about the proposed emission trading scheme. At the time of writing the government had indicated that it does not intend to adopt this recommendation.

Improved transparency in decision-making and greater access to the courts for public interest litigation was another area scrutinized in the review. The report drew on ANEDO's submission in this regard, and recommended:

- publishing a greater range of information, including the Minister's reasons for decisions, submissions, and proponent's environmental management plans
- clarifying and extending public consultation periods
- making more decisions open to merits review, including decisions on controlled actions and assessment approach, and
- extending standing for merits review application to include those persons who made a formal public comment during the relevant decision-making process.

The review also made recommendations to reduce risks of adverse costs order in public interest matters, by prohibiting the ordering of security for costs in public interest proceedings, and to empower the Federal Court to determine whether a case is a "public interest proceeding" and, if so, to determine the form of public interest costs orders in advance.

There were also elements of the Act that the review recommended retaining, including public participation provisions, the Environment Minister's role as a decision-maker, explicit consideration of social and economic issues, and strong compliance and enforcement.

The government has indicated that it will give careful consideration to the recommendations and their implications in the coming months.

Sharks listed as migratory species

On 29 January 2010 the porbeagle, longfin mako and shortfin mako sharks will be listed as migratory species under national environmental law, following their listing under the Convention on Migratory Species. Each of these shark species can be found off Western Australia.

This means any action that is likely to have a significant impact upon one of these species will constitute an offence, unless that action has been approved by the Minister for Environment under the EPBC Act. It will also be an offence to kill, injure or take one of these sharks in a Commonwealth marine area.

For more information see www.environment.gov.au

Traveston dam proposal rejected

Federal Environment Minister Peter Garrett decided not to approve the proposed Traveston Crossing Dam on the Mary River in Queensland, due to likely unacceptable impacts on nationally threatened species: the Australian lungfish, Mary River turtle, and Mary River cod. The Minister found that the proposal "would lead to serious and irreversible consequences for these species and most likely would lead to their further decline".

The decision was welcomed by those who have spent the past three and a half years examining the proposal and campaigning against it, such as the Save the Mary River Co-ordinating Group. The Minister is expected to release a public statement of reasons by the end of the year, due to the high level of public interest in the issue.

EPBC Act enforced in Vic clearing case

A Victorian construction company will have to pay $200,000 towards conservation initiatives under an enforceable undertaking, after breaching national and Victorian environment laws at an industrial site at Ardeer, Melbourne.

The Commonwealth Department of Environment, Water Heritage and the Arts (DEWHA) found that the company had cleared 0.7 hectares of the critically endangered natural temperate grasslands of the Victorian Volcanic Plain and caused a significant impact on nationally threatened species at an industrial construction storage area. The grassland was also important habitat for the critically endangered spiny rice flower, and the vulnerable striped legless lizard.

Also, a Victorian local government is required to pay $250,000 over the next three years to help remediate and protect native grassland after a contractor, hired by the council to carry out roadworks, cleared 4ha of important habitat for critically endangered spiny rice flower and vulnerable striped legless lizard, without approval under the EPBC Act. ■

Who "owns" water rights?

Kristy Robinson, solicitor and
Minori Lee, volunteer

The High Court recently considered whether or not water licences were "property", in its decision on *ICM Agriculture Pty ltd v The Commonwealth* [2009] HCA 51, handed down in December 2009.

In this case, the Plaintiffs, who conduct farming businesses on land within the Lower Lachlan Groundwater System (LLGS) in central New South Wales, had extracted groundwater from the LLGS since the early 1960s. Changes to the law in early 2008 significantly reduced the amount of groundwater they could obtain for irrigation (a reduction of about 70%). The State and Commonwealth governments offered the Plaintiffs "structural adjustment payments".

The Plaintiffs complained that the payments were inadequate compensation for their loss. They claimed that the licences were "property" which was "acquired" and therefore they were entitled to compensation on just terms as required under s51 (xxxi) of the Constitution.

The Commonwealth and other Defendants – NSW, National Water Commission, Minister for Water, and the Western Australian, Victorian, Queensland and South Australian governments – argued that the scheme involved the acquisition of rights of use, not property, and therefore there was no implied right to compensation for licences. The Commonwealth stated that the payments were not meant to be reflective of the actual value of loss to ICM, but rather a discretionary ex-gratia compensation payment. The Court found for the Commonwealth.

Historically, the common law has not recognised groundwater as "property" which people can "own". Similarly, under the current legislation there were no private rights to ownership of the water but merely an entitlement, or right, to take and use it. The NSW government always had the power to reduce these entitlements, and had done so in the past.

The Court did find, however, that the water licences were a "species of property" due to entitlements attaching to the licences, in that they could be traded or considered when valuing land. The acquisition of these licences would then require compensation under the Constitution, which extends to protect against the acquisition, other than on just terms, of "every species of valuable right and interest ..."

However, the Court held that the governments' actions did not amount to an "acquisition" of property within the meaning of the Constitution, and therefore "just terms" compensation was not required. In order for the licences to be acquired property, the NSW government must have received an identifiable advantage by the cancellation of the licences, (ie, it must have acquired an interest in the property) which they did not. Rather, this was characterised as a "conversion" of a licence, and not the acquisition and redistribution of property.

The decision paves the way for authorities to reduce water entitlements (ie, converting licences) without paying full market value for the licences and to convert water licences that reduced entitlements without actually needing to compensate.

Community-owned windfarm one step closer

Kristy Robinson, Outreach solicitor

A proposed community-owned windfarm at Denmark is moving closer to realisation after the Minister for Lands, Brendon Grylls, approved the final planning stage required.

Western Australia is renowned for its richness in resources. While its richness in renewable energy resources may not be the first thing that springs to mind, anyone who has spent some time here will be familiar with the power and consistency of the wind. At a time when the world is looking to turn away from carbon rich sources of energy, some Western Australian communities have taken matters into their own hands to harness the natural resource opportunities of the State and to source renewable electricity for their community.

Denmark Community Windfarm Inc (DCW) proposes to erect two 800kW wind turbines with a total installed capacity of 1.6MW on a small section of a disturbed coastal A-class reserve at Wilson Head. The windfarm is expected to supply about 45% of demand for Denmark homes and businesses, who currently consume around eight gigawatt hours (GWh) of electricity annually.

The Minister agreed in December to initiate excision of the site from the reserve, following support of the project by the Denmark shire council. As the site is an A-class reserve, the approval of both houses of State Parliament will also be required. This is expected to be tabled in the first session this year.

DCW chairman Craig Chappelle believes this decision marks a turning point in the project, which has had a long history of hurdles after the idea was first raised in 2003, including vocal opposition from some locals and difficulties with funding.

The proposal has already received rezoning approval, and did not require assessment under Part IV of the *Environmental Protection Act 1986* or the federal *Environmental Protection and Biodiversity Conservation Act 1999*.

Footnote: draft National Windfarm Development Guidelines

In an effort to provide greater guidance for proponents of windfarms and the community, the Environmental Protection and Heritage Council (EPHC) has released draft National Windfarm Development Guidelines. The draft guidelines address issues relevant to the early, planning stages of windfarm development. They were prepared in response to the Report on Environmentally and Socially Responsible Wind Farm Development, which identified the need for a national framework to provide consistency and transparency in wind farm developments.

The guidelines emphasise the need for early and ongoing community and stakeholder consultation and provide current 'best practice' methods for addressing issues that are unique or significant to wind farm development and operation, such as noise, landscape, birds and bats, shadow flicker, and electromagnetic interference

The guidelines are not binding, but complement existing legislation. Local government areas may adopt them as a planning requirement for new developments. The public consultation period on the draft guidelines closed on 16 December 2009.

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